

# Bankruptcy

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Learn the pros and cons of filing for bankruptcy, including how it might and might not help, and what types of debts you can get out of (discharge).

## Get help before filing for bankruptcy

- **Talk to a financial counselor.** One of these non-profit Financial Counseling organizations can help you figure out the best way to handle your debt: American Financial Solutions (<http://www.myfinancialgoals.org/>); Apprisen (<http://www.apprisen.com/>); ClearPoint Credit Counseling Solutions (<http://www.clearpoint.org/>).
- (Northwest Consumer Law Center (<https://nwclc.org/>) has free bankruptcy clinics and other free legal help.
- **If you're facing foreclosure**, contact the Washington Homeownership Resource Center (<https://www.homeownership-wa.org/services/foreclosure-prevention/#1609175727-2-63>) 1-877-8994-4663 or another HUD approved housing counselor (<https://www.hudexchange.info/programs/housing-counseling/>). Their services are free. You may also qualify for free legal help from the Northwest Justice Project's Foreclosure Prevention Unit

(<https://nwjustice.org/specialized-units#4>) at 1-800-606-4819.

## **What is bankruptcy?**

Some people who can't pay their debts file for bankruptcy. This court process allows you to get out of debt with the protection of the bankruptcy court.

Filing for bankruptcy places your finances under the court's control. A judge decides which debts to pay first, and which to cancel (to discharge). If the court discharges a debt, a creditor can never collect on (can never recover) that debt. You're no longer responsible (liable) for it.

## **When do I not need bankruptcy?**

You don't need to file for bankruptcy if any of these are true:

- You're not working.
- You don't have assets that creditors can take (garnish).
- Your income is protected from garnishment.

If the creditor can't collect from you, there's no need for bankruptcy.

## **Which debts can I discharge in bankruptcy?**

These debts are generally dischargeable:

- Credit card debt
- Medical debt
- Personal loans
- Car loans (unless you want to keep the vehicle)
- Mortgages (unless you want to keep the property)

These debts are generally **not** dischargeable:

- Student loans - unless you can show “undue hardship”
- Child support and spousal support
- Criminal fines and restitution
- Personal injury claims related to intoxicated driving

## **My wages are being garnished or my home is about to be sold. Can bankruptcy help?**

Probably.

The day you file for bankruptcy, the court issues an “**automatic stay**.” This means all collection action, including collection calls and letters, repossession, foreclosure sales, and garnishment, must stop immediately. Any creditor who violates the stay might be liable to pay you damages.

There are a few exceptions to this. The automatic stay doesn’t stop criminal or family law cases from proceeding. And timing matters. You should know any deadlines, for example for a foreclosure or eviction that you’re hoping the automatic stay will pause.

A creditor can also ask the bankruptcy court to cancel (to lift) an automatic stay. For example, if there’s no real hope of you catching up on your mortgage, the bank could ask that the stay be lifted as to the foreclosure sale of your home.

It’s a bad idea to file bankruptcy just to get the benefit of the automatic stay – for example, to stop the foreclosure of your home – if you don’t intend to go through with the bankruptcy. Talk to a lawyer about all your options besides bankruptcy.

## **Will filing bankruptcy help get an eviction off my record?**

If you were evicted for not paying rent, bankruptcy could wipe out that debt. You'd no longer have to pay the rent you owe. But the eviction will still be on record.

### How are Chapter 7 and Chapter 13 bankruptcies different?

**Chapter 7:** The court cancels (discharges) your debt. Your bills “vanish.” You're no longer responsible for them. You get a clean slate and a chance to start over with no debt. This type of bankruptcy often makes sense if you have low income.

**Chapter 13:** The court puts you on a 3- to 5-year payment plan to repay your debts. This can help you keep your home or vehicle or pay off other debts, such as traffic tickets or legal financial obligations (LFOs), that you can't discharge. But you need enough income to be able to keep up with a Chapter 13 payment plan.

### Which type of bankruptcy makes more sense for me?

Talk to a lawyer about your personal situation. If you need to save your home or car by paying past due amounts, Chapter 13 might be a better fit. If you're mainly looking to discharge a lot of credit card or other unsecured debt, Chapter 7 might make more sense.

**Secured debt** is debt where you've pledged your property, like your home in a mortgage, to the lender or creditor if you fail to make payments. **Unsecured debt** is where you haven't pledged property.

If you're a low-income homeowner, Chapter 7 might also make sense if you have a lot of debt and you're close to the homestead exemption amount of equity in your home.

The homestead exemption amount is the greater of (a) \$125,000; or (b) the county median sale price of a single-family home in the preceding calendar year (<https://wcrer.be.uw.edu/housing-market-data-toolkit/annual-median-price/>).

**Equity** is the amount of money you would keep after you sold your home and paid off the mortgage and other liens.

### Can I file Chapter 7 and keep the car or furniture I'm paying for?

If you want or need to keep secured property (like a car or furniture that creditors could repossess) when you file for Chapter 7, you must **reaffirm** (sign a new agreement on) this debt.

Always discuss reaffirmation of debts with a bankruptcy lawyer before reaffirming a debt with a creditor. Reaffirmation could be a good idea because it would help your credit record. But if it's a high interest loan or for an asset worth less than you still owe, it could lead to more financial trouble that bankruptcy can't fix.

### Does Chapter 7 have other downsides?

- It may be harder to get credit. Credit could cost you more. (**Example:** you may only be able to get credit to buy a car with a very high interest rate.)

You can start rebuilding your credit immediately after filing for bankruptcy. Talk with a credit-counseling agency that doesn't charge for their services (<http://www.nfcc.org/>).

- It will be on your credit report for 10 years.
- You'll lose the credit cards you currently have.
- The court may not consider some belongings, such as an expensive car, exempt. You could lose them as part of the bankruptcy.
- Depending on the kind of debt, the court may not discharge all your debts in the bankruptcy.
- You can't file a Chapter 7 bankruptcy again for 8 more years.

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