

NOTICE NO. 1
To be filed with the Court
Notice Mandated By Section 342(b)(1) and 527(a)(1) Of The Bankruptcy Code

PURPOSES, BENEFITS AND COSTS OF BANKRUPTCY

The United States Constitution provides a method whereby individuals, burdened by excessive debt, can obtain a "fresh start" and pursue productive lives unimpaired by past financial problems. It is an important alternative for persons strapped with more debt and stress than they can handle.

The federal bankruptcy laws were enacted to provide good, honest, hard-working debtors with a fresh start and to establish a ranking and equity among all the creditors clamoring for the debtor's limited resources.

Bankruptcy helps people avoid the kind of permanent discouragement that can prevent them from ever re-establishing themselves as hard-working members of society.

To the extent that there may be money or property available for distribution to creditors, creditors are ranked to make sure that money or property is fairly distributed according to established rules as to which creditors get what.

This discussion is intended only as a brief overview of the types of bankruptcy filings and of what a bankruptcy filing can and cannot do. No one should base their decision as to whether or not to file bankruptcy solely on this information. Bankruptcy law is complex, and there are many considerations that must be taken into account in making the determination whether or not to file. Anyone considering bankruptcy is encouraged to make no decision about bankruptcy without seeking the advice and assistance of an experienced attorney who practices nothing but bankruptcy law.

Types of Bankruptcy

The Bankruptcy Code is divided into chapters. The chapters, which almost always apply to consumer debtors, are chapter 7 and chapter 13, which involves an affordable plan of repayment.

An important feature applicable to all types of bankruptcy filings is the automatic stay. The automatic stay means that the mere request for bankruptcy protection automatically stops and brings to a grinding halt most lawsuits, repossessions, foreclosures, evictions, garnishments, attachments, utility shut-offs, and debt collection harassment. It offers debtors a breathing spell by giving the debtor and the trustee assigned to the case time to review the situation and develop an appropriate plan. In most circumstances, creditors cannot take any further action against the debtor or the property without permission from the bankruptcy court.

Chapter 7

In a chapter 7 case, the bankruptcy court appoints a trustee to examine the debtor's assets to determine if there are any assets not protected by available "exemptions". Exemptions are laws that allow a debtor to keep, and not part with, certain types and amounts of money and property. For example, exemption laws allow a debtor to protect a certain amount of equity in the debtor's residence, motor vehicle, household goods, life insurance, health aids, retirement plans, specified future earnings such as social security benefits, child support, and alimony, as well as certain other types of personal property. If there is any non-exempt property, it is the Trustee's job to sell it and to distribute the proceeds among the unsecured creditors. Although a liquidation case can rarely help with secured debt (the secured creditor still has the right to repossess the collateral if the debtor falls behind in the monthly payments), the debtor will be discharged from the legal obligation to pay unsecured debts such as credit card debts, medical bills and utility arrearages. However, certain types of unsecured debt are allowed special treatment and cannot be discharged. These include some student loans, alimony, child support, criminal fines, and some taxes.

In addition to attorney fees, there is a filing fee in the amount of \$274.00 that must be paid to the Bankruptcy Court.

Chapter 13

In a chapter 13 case, the debtor puts forward a plan, following the rules set forth in the bankruptcy laws, to repay certain creditors over a period of time, usually from future income. A chapter 13 case may be advantageous in that the debtor is allowed to get caught up on mortgages or car loans without the threat of foreclosure or repossession, and is allowed to keep both exempt and nonexempt property. The debtor's plan is a document outlining to the bankruptcy court how the debtor proposes to dispose of the claims of the debtor's creditors. The debtor's property is protected from seizure from creditors, including mortgage and other lien holders, as long as the proposed payments are made and necessary insurance coverage remains in place. The plan generally requires monthly payments to the bankruptcy trustee over a period of three to five years. Arrangements can be made to have these payments made automatically through payroll deductions.

In addition to attorney fees, there is a filing fee of \$189.00 that must be paid to the Bankruptcy Court.

Chapter 11

By and large, chapter 11 is a type of bankruptcy reserved for large corporate reorganizations. Chapter 11 shares many of the qualities of a chapter 13, but tends to involve much more complexity on a much larger scale.

However, since chapter 11 does not usually pertain to individuals whose debts are primarily consumer debts, further

information about chapter 11 will be provided by reference to the following resource: The Bankruptcy Basics brochure prepared by the Administrative Office of the United States Courts, dated June 2000, and which can be accessed over the internet by visiting the following website: www.uscourts.gov/bankruptcycourts.html .

In addition to attorney fees, there is a filing fee in the amount of \$1,039.00 that must be paid to the Bankruptcy Court.

Chapter 12

Chapter 12 of the Bankruptcy Code was enacted by Congress specifically to meet the needs of financially distressed family farmers or fishermen. The primary purpose of this legislation was to give family farmers or fishermen facing bankruptcy a chance to reorganize their debts and keep their farms or other necessary equipment.

However, as with chapter 11, since chapter 12 does not usually pertain to individuals whose debts are primarily consumer debts, further information about chapter 12 will be provided by reference to the same "Bankruptcy Basics" brochure referred to above, which can be accessed over the internet at the same said website as mentioned for chapter 11.

In addition to attorney fees, there is a filing fee in the amount of \$239.00 that must be paid to the Bankruptcy Court.

What Bankruptcy Can and Cannot Do

Bankruptcy may make it possible for financially distressed individuals to:

1. Discharge liability for most or all of their debts and get a fresh start. When the debt is discharged, the debtor has no further legal obligation to pay the debt.
2. Stop foreclosure actions on their home and allow them an opportunity to catch up on missed payments.
3. Prevent repossession of a car or other property, or force the creditor to return property even after it has been repossessed.
4. Stop wage garnishment and other debt collection harassment, and give the individual some breathing room.
5. Restore or prevent termination of certain types of utility service.
6. Lower the monthly payments and interest rates on debts, including secured debts such as car loans.

7. Allow debtors an opportunity to challenge the claims of certain creditors who have committed fraud or who are otherwise seeking to collect more than they are legally entitled to.

Bankruptcy, however, cannot cure every financial problem. It is usually not possible to:

1. Eliminate certain rights of secured creditors. Although a debtor can force secured creditors to take payments over time in the bankruptcy process, a debtor generally cannot keep the collateral unless the debtor continues to pay the debt.
2. Discharge types of debts singled out by the federal bankruptcy statutes for special treatment, such as child support, alimony, student loans, certain court ordered payments, criminal fines, and some taxes.
3. Protect all cosigners on their debts. If relative or friend co-signed a loan which the debtor discharged in bankruptcy, the cosigner may still be obligated to repay whatever part of the loan not paid during the bankruptcy case.
4. Discharge debts that are incurred after bankruptcy has been filed.

Bankruptcy's Effect on Your Credit

By federal law, a bankruptcy can remain part of a debtor's credit history for 10 years. Whether or not the debtor will be granted credit in the future is unpredictable, and probably depends more on what good things the debtor does in the nature of keeping a job, saving money, making timely payments on secured debts, etc., than the fact that the debtor filed bankruptcy.

In some cases it may actually be easier to obtain future credit after bankruptcy, because new creditors may feel that since the old obligations have been discharged, they will be first in line. They also recognize that the debtor cannot again file bankruptcy for at least the next four years in the case of chapter 13 or eight years in the case of chapter 7. The truth is that if a debtor cannot pay his or her bills, and the debtor's credit is already ruined or exhausted, filing bankruptcy can actually be an important first step in re-building credit.

Services Available From Credit Counseling Agencies

If you're not disciplined enough to create a workable budget and stick to it, can't work out a repayment plan with your creditors, can't keep track of mounting bills, or need more help with your debts than can be achieved by merely having a few of your unsecured creditors lower your interest rates somewhat, it makes NO sense to consider contacting a credit counseling organization.

If, on the other hand, you meet all of those criteria, there are many non-profit credit counseling organizations are nonprofit that will work with you to solve your financial problems.

But be aware that, just because an organization says it is "nonprofit," there's no guarantee that its services are free, affordable, or even legitimate. In fact, some credit counseling organizations charge high fees, which may be hidden, urge consumers to make "voluntary" contributions that can cause more debt, urge consumers to enter "debt repayment plans" they simply cannot afford.

Most credit counselors offer services through local offices, the Internet, or on the telephone. If possible, it is probably best to find an organization that offers in-person counseling. Many universities, military bases, credit unions, housing authorities, and branches of the U.S. Cooperative Extension Service operate nonprofit credit counseling programs. Your financial institution, local consumer protection agency, and friends and family also may be good sources of information and referrals.

Reputable credit counseling organizations can advise you on managing your money and debts, help you develop a budget, and offer free educational materials and workshops. Their counselors are certified and trained in the areas of consumer credit, money and debt management, and budgeting. Legitimate counselors will discuss your entire financial situation with you, and help you develop a personalized plan to solve your money problems. An initial counseling session typically lasts an hour, with an offer of follow-up sessions. If your financial problems stem from too much debt or your inability to repay your debts, a credit counseling agency may recommend that you enroll in what is known as a "debt management plan" or "DMP". A DMP alone is not credit counseling, and DMPs are not for everyone. You should sign up for one of these plans only after a certified credit counselor has spent time thoroughly reviewing your financial situation, has offered you customized advice on managing your money, and has analyzed your budget to make sure that the proposed DMP is one you can afford. However, remember that all organizations that promote DMP's fund themselves in part through kickbacks from the creditors involved, which are called "fair share", so you have to be wary as to whose best interest the counselor has in mind. Even if a DMP is not appropriate for you, a reputable credit counseling organization still can help you create a budget and teach you money management skills.

In a DMP, you deposit money each month with the credit counseling organization, which uses your deposits to pay your unsecured debts, like your credit card bills and medical bills, according to a payment schedule the counselor develops with your creditors. Your creditors may agree to lower your interest rates or waive certain fees, but it's always best to check with all your creditors, just to make sure they offer the concessions that a credit counseling organization is promising you. A successful DMP requires you to make regular, timely payments, and could take 48 months or more to complete. Ask the credit counselor to estimate how long it will take for you to complete the plan. You may have to agree not to apply for credit or use any additional credit while you're participating in the plan, and a DMP is absolutely useless if your problems stem from or involve your secured creditors holding your car, truck or home as collateral. DMP's are also useless if your problems stem from alimony, child support or overdue taxes.

The bottom line is this: If all you need is a little lowering of your interest rates on some unsecured debts, a DMP might be the answer. However, if what you really need is to reduce the amount of your debt, bankruptcy may be the only solution.