

your payments, you may simply continue to pay your payments as if you had not filed bankruptcy until you pay off the debt in full. If you are behind in your payments, you may "reaffirm" the debt by agreeing to keep the debt even though you filed bankruptcy. A final way to keep the property is to "redeem" it. This means you pay the creditor what the property is now worth, not what you still owe on it.

In a **Chapter 13** bankruptcy, you may not have to give back property you're buying on credit. You may be able to keep property you're buying on credit even if you're behind on payments. To keep the house where you live, you must make current payments, and you get three to five years to catch up missed payments. For other property, you get three to five years to pay the debt, or to pay what the property is worth, whichever is less.

WHAT HAPPENS TO PROPERTY I CAN'T PROTECT FROM MY CREDITORS?

In a **Chapter 7**, property you can't protect from your creditors is sold and the money is used to pay your creditors. If property you own is worth more than you can protect from your creditors, a Chapter 7 bankruptcy can be the worst possible thing you can do. You think about filing a Chapter 13 bankruptcy.

In a **Chapter 13** bankruptcy, your creditors must receive at least as much as they would get in a Chapter 7 bankruptcy. You can keep the property by paying your creditors at least as much as they would have received in a Chapter 7 bankruptcy. You get three to five years to do this.

Adapted from materials created by Martin Wegbreit.

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Bankruptcy

This pamphlet contains general information about your rights. Consult a lawyer if you have specific questions.

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This project financially assisted
by the Virginia Law Foundation.



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Bankruptcy means you ask the court to excuse you from your duty to repay your creditors. A person or business you owe money to is called a creditor. Bankruptcy allows you to discharge (get rid of) most of your debts, but also keep a certain amount of property. Two kinds of bankruptcy apply to individuals and married couples. These are a Chapter 7 bankruptcy and a Chapter 13 bankruptcy. You must be a U.S. citizen to file for bankruptcy. All bankruptcies are filed with your local United States Bankruptcy Court. You should contact the Bankruptcy Court to find out how much it will cost to file for bankruptcy.

SHOULD I FILE FOR BANKRUPTCY?

There are two reasons most people file for bankruptcy. The first reason is to get rid of some debts that you are otherwise not able to pay. The other reason is to have the protection of the automatic stay. Filing for bankruptcy creates an "automatic stay". The automatic stay stops repossessions, evictions, foreclosures, utility cutoffs, debt collection lawsuits, garnishments, levies, attachments, and all other actions to collect debts. However, a creditor may ask the Bankruptcy Court for permission to resume debt collection.

There are some disadvantages in filing for bankruptcy. One of these disadvantages is that a bankruptcy will appear on your credit report for 10 years. However, because bankruptcy wipes out many of your debts, you should be better able to pay current bills.

Another disadvantage is that you can only file a Chapter 7 bankruptcy once every six years. You should think about filing a bankruptcy only when you have income or property you are about to lose, and a bankruptcy will help you save that income or property.

WHAT PROPERTY IS PROTECTED?

When you file for bankruptcy you must list all your debts, no matter the size or to whom you owe them. You also must list all your property. Virginia law lets you keep a certain amount of property you own. Property protected from your creditors includes:

- \$5,000 worth of household goods.
- \$1,000 worth of clothing.
- Medically prescribed health aids.
- \$10,000 worth of tools and equipment you need for work or school.
- \$2,000 "equity" value in a motor vehicle. "Equity" means the fair market value minus the amount you still owe on the vehicle.
- \$5,000 worth of additional property, if you list it in a Homestead Deed filed with your local Circuit Court.

WHAT DEBTS WILL NOT BE DISCHARGED BY BANKRUPTCY?

Some debts can't be discharged. These include fines, court ordered restitution, some taxes, child support, spousal support (or alimony), debts due to fraud, debts due to wrongful and harmful acts, and most student loans.

DO I HAVE TO GO TO COURT?

Yes, at least once and sometimes twice. At the "first meeting of creditors," you are asked questions about your income and property. You must go to this hearing. At the later court date, the "discharge hearing," you get an explanation about discharge. Some courts don't require you to go to this hearing. If anything about your bankruptcy is contested, you may have to go to other court hearings. A bankruptcy usually takes between three

and four months.

CAN I FILE BANKRUPTCY WITHOUT AN ATTORNEY?

You may be able to do this, but it is not recommended. Bankruptcy is difficult. You may lose income, property, or other rights if you don't know the law.

WHAT IS THE DIFFERENCE BETWEEN A CHAPTER 7 AND CHAPTER 13 BANKRUPTCY?

The major differences between a Chapter 7 and a Chapter 13 bankruptcy are listed below. However, bankruptcy law is very complex and you should talk to a lawyer to see what type of bankruptcy you should file.

A Chapter 7 Bankruptcy:

- can be filed by any U.S. Citizen.
- once every six years.
- clears out your debt once it is completed.

A Chapter 13 bankruptcy:

- can be filed if you have a steady source of income.
- Can be filed at any time
- You make regular payments over 3 to 5 years to pay off your debts.
- Allows you to keep more property than a Chapter 7
- Might discharge some debts that the Chapter 7 does not cover.

WHAT HAPPENS TO PROPERTY I'M BUYING ON CREDIT?

In a **Chapter 7** bankruptcy you may have to give back the property that you are buying on credit. You may keep property under certain conditions. If you are current on