

Bankruptcy

WHAT IS THE DIFFERENCE BETWEEN FILING FOR CHAPTER 7 VERSUS CHAPTER 13?

Chapter 7 discharges your unsecured debt. Chapter 13 makes you follow a repayment plan for up to five years, but if you follow it, you usually can stop home foreclosure.

To learn more about the differences between Chapter 7 and Chapter 13 bankruptcy, visit <https://upsolve.org/learn/chapter-7-versus-chapter-13-bankruptcy/>.

WHO IS ALLOWED TO FILE FOR BANKRUPTCY?

Normally, everyone can file Chapter 7 or Chapter 13 bankruptcy. But, both Chapters have limits, such as, means tests, limits on how often you can file, and things that can disqualify you.

WHAT DEBTS REMAIN AFTER BANKRUPTCY?

You can generally get rid of most of your unsecured debts. The Bankruptcy Code describes what you can and cannot discharge. For example, you normally cannot get rid of taxes, student loans, or child support obligations. Speak with your attorney about which debts you have that bankruptcy won't help with

WHAT PROPERTY IS PROTECTED FROM BANKRUPTCY?

Certain kinds of property are protected from any bankruptcy case. Your home is the classic example of a protected property. As long as you continue to pay your mortgage and stay out of foreclosure, you have a roof over your head. There are two types of exemptions: federal and state. You should discuss with your attorney which options are best for your case.

WHAT DO YOU NEED TO CONSIDER BEFORE FILING?

You need to consider a lot of things before filing for bankruptcy. Some of the more common considerations include:

- If you recently filed for Chapter 7, and received a discharge, but now want to file for Chapter 7 again, you must let eight years pass from the first case's filing date.
- if your home and car are completely paid for, you may not need to file
- If you are "judgment proof," then filing for bankruptcy may not be the best option for you. For example, if all of your income is from Social Security, unemployment, or child support, you may be judgment proof. Social Security benefits, Supplemental Security Income benefits, public assistance, unemployment, VA benefits, child support, or federal employee and civil service retirement benefits cannot be taken by debt collectors. For further discussion of judgment proof status, visit <https://upsolve.org/learn/mean-judgment-proof/>.



WHAT IS AN AUTOMATIC STAY?

As soon as you file with the court, almost all collection actions are automatically stopped. This means debt collectors are not even allowed to contact you while your case is active.

WHAT IS THE DOWNSIDE OF FILING FOR BANKRUPTCY?

Your credit score may suffer. The effect of bankruptcy on your credit score could be minimal, however, if you have already been sued or are already facing foreclosure. Any new credit you get will come at very high interest rates, or you may be denied credit altogether. You have to let the Trustee and Court view your personal finances with a fine tooth comb. There are a lot of fees involved. Chapter 7 discharges debt in 2-3 months, but Chapter 13 repayment plans normally cut your wages for years and give you no guarantee of success. Spend some time on this and talk to your attorney, if possible.

WHAT ARE THE BENEFITS OF FILING FOR BANKRUPTCY?

Filing for bankruptcy can put a stop to collection calls, may stop a foreclosure to allow you time to catch up to your mortgage payments, and it can discharge your debts and give you a clean slate.

WHERE IS A BANKRUPTCY FILED?

At your local Federal bankruptcy court. You can easily find your local bankruptcy court at <https://www.uscourts.gov/federal-court-finder/search>.

WHAT DO YOU NEED TO FILE?

If you are filing for Chapter 7, Upsolve is a free resource that you may use to prepare and file your bankruptcy documents.

You need a lot of personal documents to file for bankruptcy, including tax returns and forms of identification. You should give yourself a lot of lead-in time (roughly 1-2 months) to gather the required documents.

HOW MUCH DOES IT COST?

It costs \$335 to file for Chapter 7. It costs \$310 to file for Chapter 13. These fees are subject to change. You may be able to pay your filing fee in installments, or, for Chapter 7 in very certain circumstances you can file an application to waive the fees.

WHO IS A TRUSTEE, AND WHAT DO THEY DO?

The trustee is an independent party in both Chapter 7 and 13 bankruptcy proceedings. They represent the “bankruptcy estate,” and ensure the integrity of the bankruptcy system. Their job is to make sure that everybody is treated the same.



CAN DEBT COLLECTORS BOTHER YOU AFTER YOU FILE?

The automatic stay protects you from debt collectors. If a debt collector knowingly harasses you to repay your debts, the court may punish them.

HOW LONG DOES A BANKRUPTCY CASE LAST?

A Chapter 7 case is generally quick and finishes after you receive a discharge notice in the mail (around 60 days after the first court hearing). A Chapter 13 case is generally longer than a Chapter 7 case and finishes after you complete your payments under the plan. The plan can last for up to 5 years.

WHAT IF YOU NEED TO FILE FOR BANKRUPTCY AGAIN?

You can file for bankruptcy multiple times. However, you generally must wait several years before filing for bankruptcy again.

HOW DOES A DISASTER AFFECT BANKRUPTCY?

To learn more about bankruptcy statistics and financial issues after a disaster, please refer to the below links.

For discussions of natural disasters' effects on bankruptcy:

<https://www.abi.org/abi-journal/bankruptcy-and-natural-disasters>;

https://heinonline.org/HOL/Page?handle=hein.journals/nevlj6&div=7&g_sent=1&casa_to_ken=&collection=journals.

For a discussion of COVID-19 and bankruptcy:

<https://www.nytimes.com/2020/06/18/business/corporate-bankruptcy-coronavirus.html>.

For discussions of natural disasters' effects on personal finances:

https://www.urban.org/sites/default/files/publication/100079/insult_to_injury_natural_disasters_2.pdf.

For a discussion of race and bankruptcy:

<https://features.propublica.org/bankruptcy-inequality/bankruptcy-failing-black-americans-debt-Chapter-13/>.

