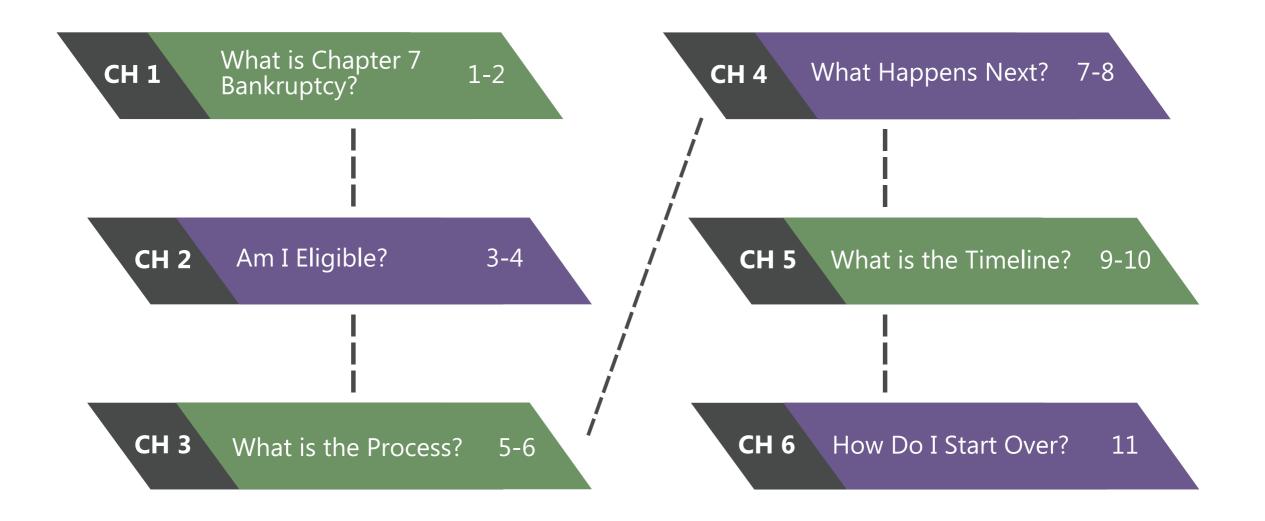
A Complete Guide to Chapter Bankruptcy



ATTORNEYS AND COUNSELORS AT LAW

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The thought of filing Chapter 7 bankruptcy is overwhelming, but knowing what you will face and having a complete understanding of the process will help you make educated decisions that work for you and your situation.





Chapter 7 bankruptcy is one of the most common forms of personal bankruptcy in the United States. It is court-supervised, and allows individuals to eliminate their personal liability debt. Although this provides a new beginning for most, some debt does not qualify under Chapter 7 bankruptcy. Each state has its own rules, restrictions and procedures on how to file Chapter 7 bankruptcy. It is important to always seek assistance from a bankruptcy attorney in your state prior to filing your case to understand these restrictions.

Benefits of Chapter 7 Bankruptcy

There are number of benefits to filing Chapter 7 bankruptcy, they include:

- **1.** Chapter 7 is usually a shorter process than other forms of bankruptcy.
- 2. Most unsecured debts do not have to be paid back.
- **3.** Future income is not part of the bankruptcy.

4. In most cases you can keep your assets and eliminate the debt.

5. The legal fees are less than other bankruptcy solutions.

- 6. There are no monthly payments required.
- 7. Chapter 7 helps restore credit scores quickly.

Are There Alternatives to Chapter 7 Bankruptcy?

There are a number of alternatives to Chapter 7 bankruptcy that may work on your behalf in lieu of filing. Some of these alternatives include:



Stop the Harassment

If you are being harassed by creditors, there are ways to protect yourself. There are state and federal debt collection laws designed to regulate the way debt collectors treat you, and what they can and cannot do.

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Negotiation

You may be able to negotiate with your creditors to get additional time to pay off your debts. In a number of cases, you may be able to settle for a lesser amount that will work to your benefit.

Credit Counseling

Credit counseling agencies are good for helping individuals with excessive debt get back on their feet. They act as the intermediary between the individual and collection agency or creditor to work out plans that help the debtor, but also assist the creditor with getting his/her money.

It is important to note that Chapter 7 bankruptcy is not a free-for-all for individuals to not pay their creditors, but is a form of protection for extreme situations.



In order for your case to qualify for Chapter 7 bankruptcy, there are certain criteria you must meet. The debtor can be a(n):

- Individual
- Partnership
- Corporation
- Other business entity

One of the most important things to remember is a debtor cannot have had a bankruptcy petition dismissed within the previous 180 days due to non-appearance in court or compliance with any existing orders. There is no limit to how many times you can file for bankruptcy, but if you have had your debts discharged under a previous case, there is a certain window of time that must elapse before you attempt to file for another discharge. If you have had a previous bankruptcy discharge, any new bankruptcy discharges are contingent on:

- Whether or not the previous bankruptcy was dismissed, discharged, or dismissed with prejudice
- The type of bankruptcy case you wish to file
- When the previous bankruptcy case was filed

If you have already had a Chapter 7 bankruptcy discharge, you must wait a period of eight years from the filing date of the previous case before filing another Chapter 7 to be eligible for a discharge. Additionally, if your bankruptcy case was dismissed with prejudice by the court, you may be prohibited from filing another bankruptcy case for a certain period of time.

What is Dismissed with Prejudice?

A bankruptcy case dismissed with prejudice when an individual or corporation fails to obey orders from the court, files multiple cases to avoid paying creditors, or attempts to abuse the system. In most cases, there is a 180-day bar imposed. Other factors that may prohibit you from refiling is:

- Bankruptcy fraud (hiding assets)
- Forging the truth on your application
- Filing in bad faith





Prior to filing for Chapter 7 bankruptcy, you must complete a credit counseling course with an approved vendor. You must receive a certificate of completion, complete Exhibit D and attach it to the Voluntary Petition.

The Voluntary Petition

The petition is where you disclose personal information. This is also where you provide the complete information on the debts you wish to discharge. You will list the creditors, assets and liabilities you have, including whether or not this is your first bankruptcy. If you have had a prior bankruptcy within the past eight years, it must be disclosed. There are a number of forms that must be included into the petition. These forms include:

- Schedule A: Real Property
- Schedule B: Personal Property
- Schedule C: Property Claimed as Exempt
- Schedule D: Creditors Holding Secured Claims
- Schedule E: Unsecured Priority Claims
- Schedule F: Unsecured Non-Priority Claims

- Schedule G: Executory Contracts and Leases
- Schedule H: Co-debtors
- Schedule I: Income
- Schedule J: Expenses
- Summary of Schedules
- Statistical Summary of Certain Liabilities

- Declaration Concerning Debtors Schedules
- Statement of Financial Affairs
- Individual Debtors Statement of Intentions
- Current Monthly Income and Means Test
- Notice to Individual Consumer Debtor
- Statement of Social Security Number(s)

Filing the Petition

Once all the forms have been completed, you may file them with the court and pay the filing fee. These fees change periodically, so finding out prior to filing is necessary. If you are having trouble in paying the fee, you may be eligible for a waiver if the combined income in the household is less than 150 percent of the applicable poverty guideline in the area. Every person filing for bankruptcy must also prepare a creditor mailing list for the court, which they will use to send notice to your creditors.

Individuals may file on their own, or have a bankruptcy attorney do it for them. Depending on your individual circumstances, you may feel as if you do not need additional assistance. The decision to file on your own or solicit the services of an attorney are based on personal preference.





Once the filing is completed, a mandatory hearing will be scheduled and you will be notified of the date, time and location of your meeting of creditors. This is also called a 341 hearing. This is where the trustee and creditors ask questions about your finances and what was disclosed on the voluntary petition. This meeting is usually between 20 and 40 days after the initial filing date. As this is a mandatory meeting, it cannot be missed unless there are dire circumstances. If there is an emergency, the trustee must be immediately notified or your case may be dismissed. In order for your case to qualify for Chapter 7 bankruptcy, there are certain criteria you must meet. The debtor can be a(n):

- Individual
- Partnership
- Corporation
- Other business entity

One of the most important things to remember is a debtor cannot have had a bankruptcy petition dismissed within the previous 180 days due to non-appearance in court or compliance with any existing orders. In most cases, once the petition is filed, an automatic stay is granted. This will require most creditors to stop any collection efforts in place against you. Although an automatic stay may be in place, some creditors violate the order.

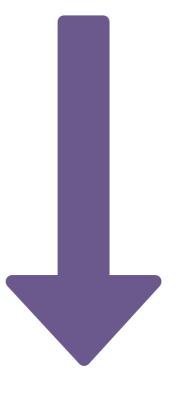
In these cases, send a copy of the petition to the sheriff or bank to ensure your assets are protected. An automatic stay is only temporary, and there are situations where it may not protect you. There are also a few instances where an automatic stay does not work. These include:



If you are in a second or third bankruptcy filing, the automatic stay will only stand for 30 days unless additional action is taken. Additionally, a creditor may ask the judge to remove the automatic stay.



To better understand the timeline of events during your Chapter 7 Bankruptcy case, reference this image.



Chapter Bankruptcy Timeline

When you file:

Once you file for Chapter 7 bankruptcy, the court will order an "Automatic Stay" which prevents creditors from taking legal action against you during the duration of your case. Upon filing, you get a federally appointed trustee who will meet with you and oversee your bankruptcy case.

15 days later:

Papers detailing your assets, liabilities, expenses and income must be filed to the court within 15 days of declaring bankruptcy. After 15 days, the court will mail the "Notice of Commencement of Case" to you and all of your listed creditors. This notice will list the date of the meeting set for you, your creditors and your trustee.

3-6 weeks later:

The meeting between you, your creditors and your trustee will occur. You must attend this meeting – if not, your case will be dismissed. Six weeks after you file you must submit a certificate from an attorney that you have been advised on your bankruptcy options. With this, you must file a list of increased income or expenditures you can expect in the future.

15 DAYS 3-6 WEEKS 4-6 MONTHS

30 days later:

Thirty days after filing, or before the meeting with your creditors and trustee, you are required to file a "Statement of Intention." In this document, you will declare whether you will keep your property that serves as collateral or whether you intend to give it to the creditors.

4-6 months later:

A successful Chapter 7 case ends with a debt discharge. This should happen 4-6 months after filing.



Once you have gone through the process and successfully filed for bankruptcy, you have a fresh start. Taking the steps to stay ahead of any debt is key. There will be many opportunities to get back into debt, but make your finances your top priority.

Seek financial education classes or read personal finance blogs. Find budgeting techniques that work for you and stick to them. Tell close friends and family about your situation and allow them to hold you accountable. Do whatever it takes to stay in the black. Keep in mind that you will still be obligated to any creditors who were not included in the discharge. You should make every effort to pay those debts as soon as possible.

Chapter 7 bankruptcy is a way to rebuild your life, so take this as a lesson worth paying attention to. The bankruptcy courts understand that things do happen – the goal is to avoid debt and create a secure financial life.

Contact the attorneys at Clark & Washington for help during your Chapter 7 bankruptcy. Not sure if you want to file or even want an attorney, no worries. Our initial consultation is completely free. Call us at **770-504-6348** to get started.

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