

FREQUENTLY ASKED QUESTIONS ABOUT FILING BANKRUPTCY

(Numbers change periodically. These are in effect as of 11/2013)

1. How much equity can I have in my house and still file a Chapter 7 Bankruptcy?

You can have \$22,975 per person/\$45,950 per married couple equity in your residence as of 11/2013.

2. How do I determine the equity in my house?

Figure out the value (what could your house be sold for today) of your house, subtract the amount of mortgage(s) and the sum is your equity.

3. Can I protect real estate that I do not reside in but I have equity in?

It is difficult to protect any real estate other than your residence, unless the equity in the other real estate is less than \$12,725 per person and you have **no other** property to protect.

4. Can I protect my vehicle(s) and still file a Chapter 7 Bankruptcy?

Yes, your vehicle can be worth \$3,675 (value – loan = your value), other vehicles can be protected under the general category.

5. I have an IRA/401(K)/Pension Plan that I can not withdraw or take a loan against prior to retirement or termination, will it be seized by the Bankruptcy Court?

Not usually.

6. My paycheck is being garnished; will filing a Bankruptcy stop that? How soon?

Yes, immediately upon filing we can notify your employer.

7. I have judgments against me. What methods can my creditors use to collect the debts?

Garnishments against wages, tax refunds, and bank accounts, seizure of vehicles, furniture, firearms, or anything else you own, liens against real estate.

8. Which looks worse on my credit report Bankruptcy or bad debts?

Bad debt always looks bad. Bankruptcy is a black mark, definitely, but, it will “clean up” your credit report and zero out your unsecured debts.

9. What kind of debts can be discharged (wiped out) by Bankruptcy?

Unsecured debt such as credit cards, medical bills, music clubs, magazines, personal loans may be discharged in a “normal” case. Any debt secured by property such as real estate, furniture, vehicles etc. may be discharged if the property is returned.

10. I rolled one vehicle loan into my current vehicle loan, now I owe about twice what my vehicle is worth, what can I do?

It would probably be best to surrender the vehicle and buy one that you can afford.

11. Should I close my bank accounts prior to filing?

Only if you owe the bank or credit union money for a loan you will not be paying after the filing of the bankruptcy.

12. Should I take my name off of any property prior to filing?

No, it has to be disclosed and it would be fraudulent not to disclose it.

13. What debts can not be discharged in Bankruptcy?

You cannot discharge unsecured priority claims, including, but not limited to, certain taxes, student loans, spousal support, child support, criminal restitution, and debts for death or personal injury caused by driving while intoxicated from alcohol or drugs. Creditors can also object to a Chapter 7 discharge based on the fraudulent acts of the debtor. A discharge in a Chapter 7 case is a liquidation, or termination of the obligation on the debt, of the debtor’s unsecured, non-priority debt, in addition to secured debt that is surrendered. Unsecured, non-priority debt, are debts such as medical bills credit cards, and personal loans. Secured debt is debt that has a lien, or security interest, in real or personal property, such as a car loan or a mortgage on real property. The obligation on a secured debt can be discharged as long as the property securing the loan is returned, or surrendered, to the creditor.

14. Do I have to stop using my credit cards?

Yes, stop immediately, once you decide to file for Bankruptcy protection.

15. Once I’ve made the decision to file Bankruptcy, what bills should I continue to pay?

Continue to pay mortgage(s), car payment(s) (if you plan to keep them), rent, utilities, and telephone.

16. What does your office charge for a Bankruptcy?

The filing fee to the court is \$306.00 and the legal fee is \$1,000.00 for most counties surrounding Shiawassee County. It is more expensive if the hearing is in Detroit, Ann Arbor, Grand Rapids or Traverse City.

17. What are the different Chapters of Bankruptcy?

Chapter 7 is designed for debtors in financial difficulty that do not have the ability to pay their existing bills. Chapter 13 is designed for individuals with regular income who are temporarily unable to pay their debts but who would like to pay them in installments over a period of time. You are eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code. Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney. Chapter 12 is designed to permit family farmers to repay their debts over a period of time from future earnings and is in many ways similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family owned farm.

18. How long does the entire process take?

Once we are fully paid we process your paperwork within a couple of days (sooner if lawsuits are involved) and get you in to sign, we then immediately file it with the court, about six weeks later your hearing is held, and approximately three months later your discharge is granted.

19. How long does a Bankruptcy stay on my credit?

Seven to ten years. Many people find that they can qualify for more credit after their discharge than they could before. Many creditors realize that once most of the individual's debt is discharged the individual has more disposable income. There are many businesses that advertise that they work with people that have had a bankruptcy discharge. Many mortgage lenders are extremely conservative and will not enter into a new mortgage until at least two years after a bankruptcy discharge.

20. All of the debt is in my name, does my spouse have to file also?

No

21. Do I have to disclose my spouse's income if I file alone?

Yes, the entire household income has to be disclosed.

22. I have a co-signer on a debt, if I ask that the debt be discharged, what happens to the co-signer?

The lender will go after the co-signer to collect the debt, if it is not being paid by the co-signer.

23. Can I be denied a Bankruptcy?

Yes, but if everything is disclosed to us at the initial interview, we will be able to tell you if we have any concerns.

24. How hard is it to re-establish my credit after Bankruptcy?

You may be offered credit soon, but expect to pay a higher interest rate, so you will want to shop around for reasonable lenders.

25. Where do I go to Court and how many times?

The location is different depending on the county that you live in and you usually have to attend only one hearing.

26. Will someone from the Bankruptcy Court come to my house to appraise my assets?

They can. You must disclose everything so if they come, there will not be a problem.

27. My residence is in my non-filing spouse's name, as is the mortgage, do I need to list it in the Bankruptcy?

Yes, as a spouse, you have an interest in the property and we will need to protect your interest.

28. What are the immediate benefits once I have retained your office?

We will inform your creditors of your intention to file and handle your collection calls if you will refer them to us. You can tell your creditors the following information:

1. Do not call me anymore
2. I am going to file bankruptcy.
3. All contact should be made with my attorney.
4. My attorney's name is Barbara BakerOmerod.
5. Her telephone number is 989-723-8222.

29. I am getting calls at work, what can I do?

Inform the caller that they are endangering your job and if they don't stop you will get fired, they are supposed to stop. After retaining our office, inform them they need to call us.

30. I have a prior Bankruptcy, how many years do I have to wait before I can file again?

Eight years, from the file date, for a Chapter 7.

31. Is the Bankruptcy published in the paper?

Lawyer's Weekly a publication usually read only by attorneys is the only publication my office is aware of.

32. Do I have to tell the Bankruptcy Court about the assets that I want to keep?

You are required by Federal Law to list all of your assets and liabilities in a Bankruptcy petition. A Chapter 7 Bankruptcy allows for a debtor to protect, or exempt, a certain amount of assets that the debtor may keep. If you have more assets than are allowed to be exempt under a Chapter 7, a Chapter 13 may be appropriate.

33. How can I keep my house and my car?

The Bankruptcy Code was enacted to give people in serious financial trouble the ability to obtain a fresh start by filing for bankruptcy protection. In order to have a fresh start, debtors must be able to live and work. Specific dollar amounts are set out (exemption limits) and as long as your car and house are below those exemption limits and you continue to pay your mortgage(s) and/or loan, you may keep them and receive your discharge.

34. What happens to my house if I file for bankruptcy?

If you want to keep your house and your equity is within the exemption limits, you may keep your house as long as you continue to pay the mortgage payments and sign a "reaffirmation agreement." The reaffirmation agreement is a contract that requires both parties to be bound by the terms of the original contract.

35. Will I be able to purchase a car after filing for Bankruptcy?

Most creditors will not enter into a contract with a purchaser during the bankruptcy process. Once the discharge has been granted many creditors are eager to work with people that have sufficient income to pay for an auto installment loan or lease.