

# Bankruptcy Basics

Answers to Common Questions  
about Bankruptcy

from the Randall and Waldner PLLC



# Contents

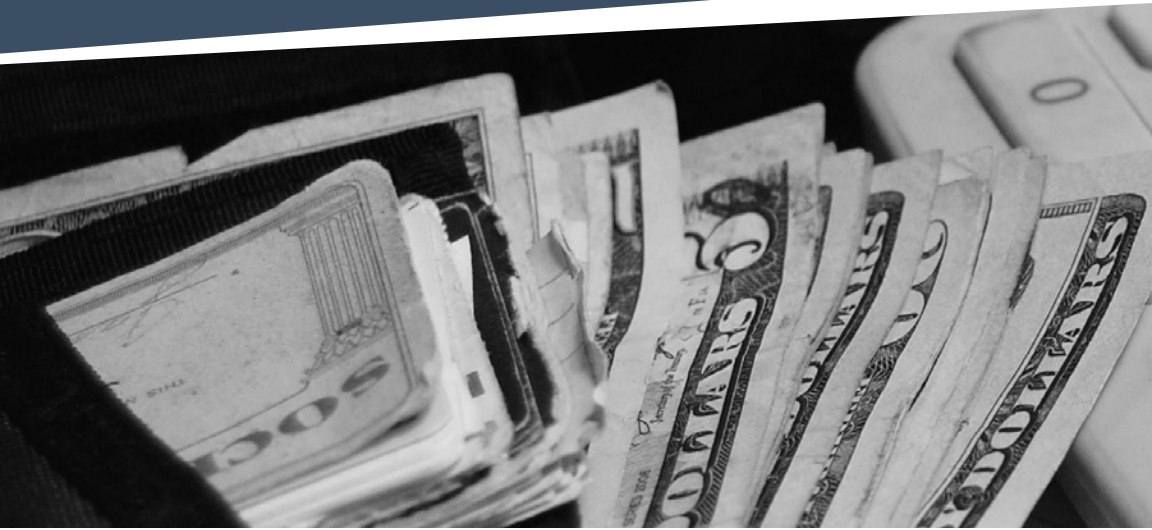
- 4 Introduction
- 5 What is Bankruptcy?
- 7 Should I File for Bankruptcy?
- 9 What Are the Types of Bankruptcy?
- 11 What Are the Steps in the Chapter 7 Bankruptcy Process?
- 15 What Are the Steps in the Chapter 11 Bankruptcy Process?
- 19 What Are the Steps in the Chapter 13 Bankruptcy Process?
- 25 How Long Does the Bankruptcy Process Take?
- 28 What Debts Are Eliminated with Bankruptcy?
- 29 What Happens to My Assets When I File for Bankruptcy?
- 31 Why Do I Need a Lawyer to File for Bankruptcy?



## Introduction

If you're having trouble paying your debts and feeling anxious about your financial future, filing for bankruptcy might be a good idea. While you may feel hesitant or a little fearful when thinking about filing, bankruptcy is actually a relatively simple process designed to ease your mind and give people just like you an opportunity to make a "fresh start."

This booklet is designed to help you get started by giving you a basic understanding of the bankruptcy process and how it can lead to a better financial future. The booklet is written for someone like you who wants answers to basic questions before making any decisions. It is not intended to take the place of consulting an experienced bankruptcy attorney, who can provide guidance specific to your situation.



## What is Bankruptcy

Bankruptcy is a process governed by federal law called the “Bankruptcy Code,” which is designed to give people and businesses with burdensome debt a fresh financial start. Under the bankruptcy law, individuals or business entities can discharge most of their debts through liquidation (Chapter 7); commercial enterprises can reduce their debts and continue operating under an approved reorganization plan (Chapter 11); and individuals can follow an agreed upon plan to repay all or part of their debts within a specific time frame - typically 3 to 5 years (Chapter 13).

To use the bankruptcy law to handle your debt problems, you will need to follow federal and local bankruptcy procedures, which usually include filing requirements, scheduled meetings, a time line, and specific administrative personnel. (See later sections of this book for more information on procedures.)



As someone filing for bankruptcy, your main role will be to make sure all required forms are completed accurately and on time, to attend a meeting of creditors (often called a “341 meeting” (because section 341 of the Bankruptcy Code requires the meeting), and to follow any other directions issued by the trustee assigned to your case. Typically, your attorney will make sure all forms are filed correctly, the 341 meeting goes smoothly, and all directives are taken care of so that you can get a financial “fresh start” from debt as quickly as possible.

Reading this book might be your first step on the path to that fresh start. It will help answer your general questions about bankruptcy and help you decide what your next step will be.

# Should I File For Bankruptcy

If you are currently burdened with excessive debt and upset by harassing calls from collection agencies, filing for bankruptcy may be a good option. The federal bankruptcy law, designed for any individual or business that seeks relief from excessive debt, can help you eliminate all or some of your debts, or, if feasible, help you create a payment plan that is more manageable than your present situation.

Bankruptcy law gives everyone the right to file for bankruptcy; however, there are different types of bankruptcy, and understanding which one is right for your situation is important. Sections in this book on the different types of bankruptcy and a consultation with an experienced bankruptcy attorney can help you decide if you should file for bankruptcy and, if so, which type of bankruptcy would be most suitable and most beneficial for you.



Some of the benefits of filing for bankruptcy include:

- **Protection from Creditors:** When you file for bankruptcy, you are granted an “automatic stay,” which legally prevents creditors from pursuing debt collections from you.
- **Elimination or Restructuring of Debts:** When you file for Chapter 7, you can eliminate most or all of your debts; when you file for Chapter 13, you can develop a manageable, 3 – 5 year debt repayment plan that will decrease your total debt significantly.
- **A Fresh Start:** With either Chapter 7 or Chapter 13, you will no longer have the stress of dealing with collection agencies and burdensome debt. And once you complete the bankruptcy process, your debt will be gone, and you will have a fresh financial start.





## What Are the Types of Bankruptcy

There are three main types of bankruptcy: Chapter 7, Chapter 11, and Chapter 13. Each one has different requirements and benefits.

**Chapter 7:** This type of bankruptcy allows qualified individuals to eliminate all or most of their debt within 3 – 5 months, but requires the sale (“liquidation”) of most of your assets. In general, to qualify for chapter 7 protection, your average monthly income for the six months prior to filing for bankruptcy must be less than the median income in your state.

**Chapter 11:** This type of bankruptcy is mainly for businesses that need immediate help but have good prospects for future profitability. Chapter 11 allows these businesses to develop a reorganization plan and continue operating. Under the plan, businesses can reduce their debts and re scale their operations in order to become more profitable.

**Chapter 13:** This type of bankruptcy is typically for individuals with a steady source of income. Chapter 13 allows you to keep your assets, such as your home and car, and develop a 3 – 5 year debt payment plan. If your income is greater than the median income in your state, chapter 13 is the type of bankruptcy you qualify for.

To determine which type of bankruptcy is applicable and beneficial for your specific situation, you should consult with a qualified bankruptcy attorney who knows the ins and outs of federal law and state regulations and the right questions to ask you.



## What are the Steps in the Chapter 7 Bankruptcy Process

Chapter 7 bankruptcy is a relatively short, simple process, beginning with deciding if it is the best option, given your financial situation, and ending three to five months later with the elimination (discharge) of most of your debts.

### **Step 1. Decide if Chapter 7 is right for you.**

If you have a lot of credit card debt, medical bills, and/or utility bills that you can not pay, don't own much property, and are receiving collection calls and notices, filing for Chapter 7 bankruptcy protection may be the best choice for you. A consultation with a bankruptcy attorney can help you determine if Chapter 7 is right for you.

### **Step 2. File for Chapter 7 Bankruptcy.**

If you and your attorney decide Chapter 7 is the best option, the next step is to file a bankruptcy petition with the appropriate bankruptcy court. Your attorney will take care of this and other required documents, but will need a list of all creditors, as well as the amount and nature of their claims.

Typically, your attorney will file all Official Bankruptcy Forms together, but you have up to 15 days after the petition is filed to submit other documents to the court listing your assets, liabilities, expenses, income, and a statement of your affairs. If you are an individual with primarily consumer debt, the Court also requires a certificate of credit counseling and a copy of any debt repayment plan developed through credit counseling.

**Step 3. Let the process work for you - the first 2 WEEKS after filing.**

Once your petition for bankruptcy is filed, the Court will send a notice of your case to all of the creditors listed in your petition. The Court will also appoint a bankruptcy trustee to oversee your case. The trustee will review your petition, make sure it's complete, and schedule a meeting of your creditors. During this time, the law prohibits creditors from taking any collection or legal action against you.

#### **Step 4. Attend the Meeting of Creditors - approximately 3 to 6 weeks after filing.**

Between 21 and 40 days after your petition is filed, your bankruptcy trustee will meet with you, your attorney, and any creditors who attend. Typically, creditors do not attend, and the meeting can be very short (approximately 10 minutes), but you will be required to be there, testify under oath that the statements in your petition are true, provide financial records or documents requested, and attest to your understanding of the potential consequences of a bankruptcy ruling. After the meeting, creditors have 60 days to object to the discharge of your debt.

#### **Step 5. File more documents - within 6 1/2 WEEKS of filing.**

Within 45 days of filing your petition for bankruptcy, you will have to submit a statement with a certificate from your attorney indicating that you received an explanation of all bankruptcy options available to you, evidence of income from employers within 60 days of your filing, an itemized statement of your monthly income, and an estimate of expected increases in income or expenses during the next 12 months.

#### **Step 6. Start fresh after receiving a copy of the final order of discharge from the Bankruptcy Court - within 60 days of the Meeting of Creditors (approximately 4 months after filing).**

.....  
.....  
16.41

.....  
.....  
38.15

.....  
.....  
9.43

**282.27**

**Électricité con**  
Meter reading  
Relevé du com  
Previous read

Equals curre  
Soit une uti

**Your elect**  
**Aper**

# What are the Steps in the Chapter 11 Bankruptcy Process

Chapter 11 bankruptcy is designed for corporations, partnerships, or individuals in business who have the potential to become profitable. The bankruptcy process is more complicated than Chapter 7 or 13 because it requires a reorganization plan in order to keep the business operating and paying off creditors over time.

## **Step 1. Decide if Chapter 11 is right for you.**

In order to qualify for Chapter 11 bankruptcy, your business should have the potential to become profitable if given time to reorganize and pay off debts. A bankruptcy attorney can help you determine if restructuring and managing debt payments is feasible for you under Chapter 11.

## **Step 2. File Your Petition for Chapter 11 Bankruptcy.**

Your Chapter 11 bankruptcy case begins when you file your petition with the bankruptcy court serving your district. In addition to your petition, you must also file a list of all assets and liabilities; a list of current income and expenditures; a list of contracts and leases; a statement of financial affairs; and a plan of reorganization or intention to file a plan.

### **Step 3. Meet with Creditors and the Appointed Trustee.**

As in other types of bankruptcy, you must attend a meeting of creditors with the trustee appointed to your case. At the meeting, the trustee and creditors can question you under oath about your conduct, property, and the administration of your case.

If your case involves a large business with numerous creditors, the trustee will appoint a creditors' committee whose job it is to consult with you on the administration of your case, investigate your conduct and business operations, and participate in formulating a reorganization plan.

If your case involves a small business, you will have to attend an initial interview with the trustee to evaluate your profitability and business plan. The trustee will require ongoing reports on profits and expenses so that he/she can monitor your business activities and determine if you will be unable to confirm your reorganization plan.





#### **Step 4. Submit Your Plan of Reorganization for Confirmation.**

With your attorney, you develop a plan for restructuring your debts so you're your company can remain profitable while paying your creditors. Your plan must include a classification of creditors' claims and an explanation of how each class of claims will be treated under the plan. Creditors whose claims will be altered according to the plan (i.e., whose contracts will be modified or who will be paid less than owed) vote on the plan. After the votes are collected and counted, the bankruptcy court in your district holds a confirmation hearing to determine whether or not to confirm the plan. If your reorganization plan is not approved, you can revise it and have another confirmation hearing.

#### **Step 5. Continue Operations - with Some Requirements.**

Under Chapter 11, you continue operating your business but must follow your Plan of Reorganization and file required reports. In addition, you must pay a quarterly fee to the trustee (\$250 - \$10,000, depending on the amount of money distributed to creditors during the quarter). If the Plan of Reorganization works as intended, creditors will be paid and your business will be profitable within the stipulated time frame.

# What are the Steps in the Chapter 13 Bankruptcy Process

If you have a regular income but are having trouble repaying your debts, Chapter 13 bankruptcy could help you get your financial affairs back in order. Being aware of the steps in the bankruptcy process and consulting with a bankruptcy attorney can help you decide if Chapter 13 is a good option for you.

## **Step 1. Decide if Chapter 13 is right for you.**

If you have a steady income, Chapter 13 could provide a way for you to keep your property and adjust your debts so you can pay them off over time (typically, three to five years.). Under Chapter 13, you could save your home from foreclosure, reschedule and extend debts other than a home mortgage, protect co-debtors, and avoid having to deal personally with creditors.. Consulting with a good bankruptcy attorney and then getting briefed from a certified credit counseling agency on financial management (within 6 months prior to filing for bankruptcy) is a good first step on the road to financial stability.



## **Step 2. File Your Bankruptcy Petition with the Court.**

Your case formally begins when you file your bankruptcy petition with the appropriate bankruptcy court. In most cases, as soon as you file your petition, the court will enter an Automatic Stay order prohibiting most of your creditors from taking or continuing any collection or legal action against you. This stops many of the harassing letters and phone calls while your case is in progress.

Next, the court will send a notice of your case to all of the creditors listed in your petition. Additionally, the bankruptcy court will assign a bankruptcy trustee to oversee your case. The trustee is a federal employee appointed by the court to monitor your case and make sure you are eligible for bankruptcy. The trustee will review your petition, make sure that it is complete, and then schedule a meeting of your creditors.



### **Step 3. More filing and Notice of Commencement of Case 15 days after filing for chapter 13**

You have a deadline of 15 days after you file your petition to file certain financial “schedules” with the court: documents stating your assets, liabilities, expenses, income, and a statement of your affairs. In most case, however, your attorney will file these schedules with your petition.

Unless the court grants an extension, you must file a repayment plan with the petition or within 15 days after the petition is filed. The plan must be submitted for court approval and must provide for payments of fixed amounts to the trustee on a regular basis, typically biweekly or monthly. The trustee then distributes the funds to creditors according to the terms of the plan, which may offer creditors less than full payment on their claims.

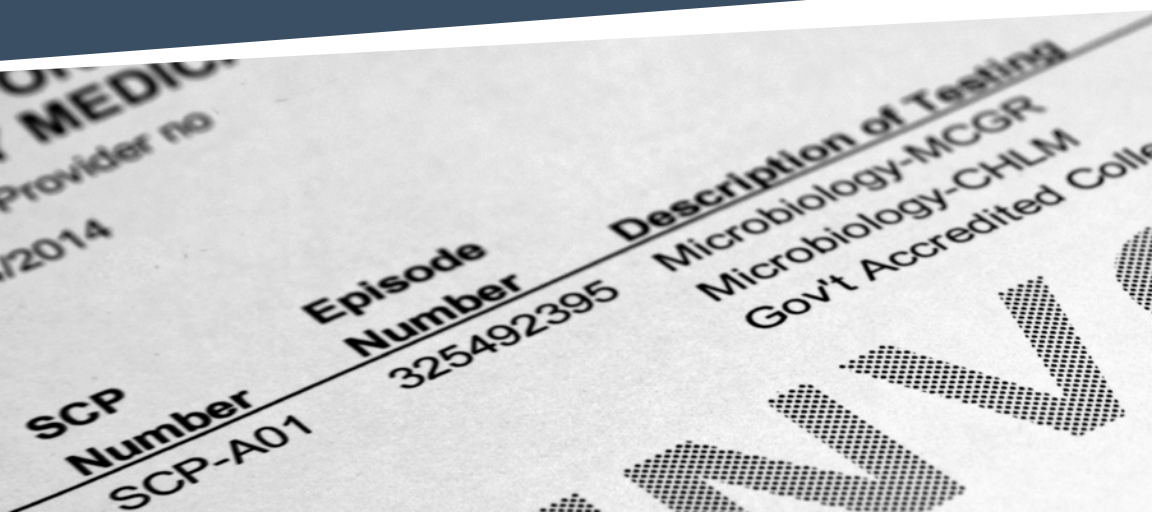
Within approximately 15 days after you file your case, the court will mail the Notice of Commencement of Case to you and to all of the creditors listed in your petition. This notice will inform you of the date set by the court for the meeting of your creditors, and the deadlines for your creditors to object to your case and file their claims against you.

## Step 4. Making payments

Approximately 30 Days After Your Chapter 13 Repayment Plan is Filed

You must make your first payment under your repayment plan within 30 days after the date that your plan was filed, otherwise your case can be dismissed.






## **Step 5. Meeting of Your Creditors**

Approximately 6 Weeks (45 days) After Your Case is Filed

The court will hold the Meeting of Your Creditors about three to six weeks after your bankruptcy case is filed. The court-appointed trustee will preside over this meeting. At the meeting, which you are required to attend, you will be asked to testify under oath as to the accuracy of the statements in your petition. However, most creditors generally do not appear at the meeting, and you will not be before a judge. The meeting is very informal, and in most cases will last no more than 10 minutes. If you do not attend the meeting, your case will be dismissed.

30 Days After the Meeting of Your Creditors

The bankruptcy trustee and your creditors have 30 days after the conclusion of the meeting of your creditors to make objections.



ection Fee-PEI  
**CHOICE**  
A

## 90 Days After the Meeting of Your Creditors

All of your creditors (except for government entities) must file their proofs of claim (these are documents your creditors submit to the court specifying how much you owe them) within 90 days after the first date set for your creditor meeting if they wish to share in the payments from your case.

## 180 Days After Your Case is Filed

Government entities that have claims against you (such as the IRS) have 180 days after the filing of your case to submit their proofs of claim.



# How Long Does the Bankruptcy Process Take

## How Long Does the Bankruptcy Process Take?

The length of time it takes to eliminate your burdensome debt and get a fresh financial start depends on the type of bankruptcy.

**Chapter 7:** A chapter 7 bankruptcy takes a total of 3 – 4 months, depending on the complexity of your debts and assets.

**Chapter 11:** A chapter 11 bankruptcy usually takes 4 months or more. The amount of time depends on your business's specific situation and plan for reorganization.

**Chapter 13:** A chapter 13 bankruptcy takes between 3 and 5 years, depending on the payment plan you develop.

# March 2005

Tue

Wed

Thu

1

2

3

4

NEW M. 10

7

8

9

10

13

14

15

16

20

21

22

23

*Dodds Electrical*

Description

Estimate

**PAST DUE**

Subtotal	69
Tax	
Total	



Subtotal :	944
Tax :	118.6
Total :	1,062.6

Client Code : 247  
Invoice No : 247

# What Debts Are Eliminated with Bankruptcy

The debts eliminated vary by type of bankruptcy, but typically, a bankruptcy discharge clears you from being legally responsible for most types of debt, including:

- Business debts
- Credit card debts
- Medical bills
- Personal loans
- Leases
- Secured debt from property (If a valid lien against the property exists, a creditor can repossess the property.)

In addition, a permanent court order prohibits creditors from taking any action on those debts, including legal action and communication with you.

According to the Bankruptcy Code, often certain types of debts cannot be eliminated, including:

- Income tax debt
- Debts you forgot to include on the lists filed with the court
- Child support and alimony debts
- Debts for personal injury or death to others due to drunk driving
- Debts to government entities for fines and penalties
- Student loan debt

## What Happens to My Assets When I File for Bankruptcy

What happens to your assets (the things of value that you own, such as a house, car, furniture) depends on the type of bankruptcy you file for and the state where you live.

- In a Chapter 7 bankruptcy, you have to list all assets and all property that is exempt (cannot be sold) when you file for bankruptcy. At the required meeting with your creditors, the creditors or trustee overseeing your case can object to your exemptions, but if no one objects, then the property listed is considered exempt and will not be sold.

Each state has its own regulations on property exemptions, but usually, a part of your house and vehicle are exempt from liquidation, as well as household items, furniture, and retirement assets. If you are considering a Chapter 7 bankruptcy, you should consult an attorney to find out specifically what and how much of your property will be exempt from liquidation in the state where you live.

- In a Chapter 11 bankruptcy, what happens to your assets depends on your Plan of Reorganization.
- In a Chapter 13 bankruptcy, you do not lose any of your assets as long as you follow your repayment plan and pay off your debts in 3 – 5 years, as determined by your plan. Being able to keep your assets is an advantage of a Chapter 13 bankruptcy.

## Why Do I Need a Lawyer to File for Bankruptcy

The federal bankruptcy code does not require you to have a lawyer. However, a good bankruptcy lawyer is important to help you

- Determine when to file for bankruptcy and what type of bankruptcy will benefit you the most. An attorney will let you know when the best time to file for bankruptcy is, given your financial situation. He or she will also know the correct means test for your state and be able to tell you if you qualify for Chapter 7 or would be better off filing for Chapter 13.
- Complete the required forms and schedules correctly so that your case does not get rejected by the court. An attorney will make sure you have completed all forms accurately so that you are prepared for the meeting with creditors and don't have to worry that the court will dismiss your case.
- Develop an acceptable payment plan. If you're filing for Chapter 13 bankruptcy, an attorney will help you develop a manageable repayment plan that will meet the court's approval.

- Avoid making mistakes that will hurt you. An attorney will make sure you understand and follow bankruptcy regulations and procedures so you don't jeopardize your case. People have lost rent-stabilized apartments, cars, jewelry and even their homes by not properly filing their case.
- Complete the bankruptcy process with minimal stress. An attorney will take you through each step of the bankruptcy process, making sure everything is filed on time and prepared correctly. He/she can answer all of your questions about bankruptcy and get you started on the path to a financial fresh start.





## About the Author

William's successful record and dedication to his clients is acknowledged by the New York City community through various awards, including Best Bankruptcy Lawyer in New York, recipient of the client's choice award, Top contributor-chapter 13 Bankruptcy, and selection as a Super Lawyer, Rising Star in 2013, 2014, 2015, 2016, 2017 and 2018. William Waldner is also sought out by various news outlets, being featured as a personal finance and credit expert on U.S. News, The

Street, CNN iReport, Newsday, Payscale, The Wall Street Journal, The Daily News, Expert Beacon, The Bronx Times, The Washington Post and CBS New York among others.

## William Waldner Education and Associations

William graduated from the University of Colorado and received his law degree from Western Michigan University, completing an externship at The Law Office of Craig Davidowitz, P.C. in Manhattan. After graduation, he moved to New York and started his Bankruptcy law firm in Manhattan. He is an active member of the National Association of Consumer Bankruptcy Attorneys (NACBA). In his spare time William enjoys tennis, golf and cycling.

[www.uptownbankruptcy.com](http://www.uptownbankruptcy.com)

Washington State Bankruptcy Attorneys |  
Randall & Waldner, PLLC. All Rights Reserved.  
Attorney Advertising. We are a debt relief agency.  
We help people file for Bankruptcy.