



# Chapter 7 Bankruptcy

**What is bankruptcy?** Bankruptcy is a legal proceeding where a person who can't keep up with his or her bills can get a "fresh start". Filing bankruptcy immediately stops all of your creditors from seeking to collect debts from you until your debts are sorted out (called the "automatic stay").

**What is a Chapter 7?** Chapter 7 is known as "straight" bankruptcy" or "liquidation." In a Chapter 7, a list of all of your assets (property) and debts is filed with the bankruptcy court. The court will appoint a "trustee" to represent the interests of your creditors and can sell your property to pay debts. In most Chapter 7 cases, however, your property will be "exempt" by law, and can't be sold to satisfy creditor's claims. When your Chapter 7 case is over you should receive a "final discharge" and *most* of your debts will be erased. If you filed under Chapter 7 and your debts were discharged, you must wait 8 years before filing another Chapter 7.

**What is the "means test"?** Everyone that files for bankruptcy under Chapter 7 must pass a "means test." The means test is a tool to see if you qualify for Chapter 7 (debt liquidation) or Chapter 13 (repayment plan). You don't have to be low-income to file for Chapter 7. People with higher incomes can qualify if they have high expenses, such as a high mortgage payment.

**How will a Chapter 7 affect my credit?** Generally, a Chapter 7 bankruptcy remains on a person's credit report for up to 10 years from the date the case was filed, while negative accounts stay on your credit report only 7 and a half years. If you are considering bankruptcy, your credit might already be in bad shape. Check your credit report for free by going to [www.annualcreditreport.com](http://www.annualcreditreport.com). A bankruptcy notation on your credit report warns future creditors that you did not pay your debts as agreed. Restoring credit after a Chapter 7 can take some time and effort.

**What does a Chapter 7 do?** A Chapter 7 bankruptcy CAN:

- Stop repossession of a car or other property, or, in some situations, force the creditor to return property even after it has been repossessed.
- Stop debt collection harassment.
- Restore or prevent termination of your utilities for nonpayment of previous bills.
- Restore your driver's license if it was suspended because you failed to pay court-ordered damages for a driving accident (unless the accident involved a DUI).
- Eliminate the legal obligation to pay most or all of your debts. This is called a "discharge" of debts.

**What can't be done through Chapter 7?** A Chapter 7 bankruptcy CANNOT:

- Discharge past-due child support, property taxes, recent IRS debts, and most student loans.
- Protect you from "hot check" or other criminal charges, or waive criminal fines, fees, penalties and restitution.
- Discharge debts that arise after the bankruptcy has been filed.
- Eliminate the obligation of a co-signer on your loan in most cases.
- Eliminate creditor's rights to secured property like car loans and home mortgages. Chapter 7 can discharge the debt, but not the creditor's lien or legal claim. After bankruptcy, your home can still be foreclosed and your car repossessed if you don't make payments.

**Are there alternatives to bankruptcy?** Yes. Doing nothing is an option if you are "judgment proof." If your property and income are exempt from creditor's claims by law, then you have nothing the creditors can take from you. With the exception of past due child support, you can't be put in jail for failing to pay a debt. If you are not judgment proof, you can negotiate a payment agreement with your creditors before filing for bankruptcy. The Federal Trade Commission has tips on credit counseling at [www.consumer.ftc.gov/articles/0153-choosing-credit-counselor](http://www.consumer.ftc.gov/articles/0153-choosing-credit-counselor).

