

Chapter 7 Bankruptcy:

What You Need To Know



What is bankruptcy?

Bankruptcy is the legal way to “discharge” debts. **Discharge** means once the bankruptcy is finished, creditors can’t collect from you.

Should I file bankruptcy?

You need a lawyer to tell you when bankruptcy will help you the most. In some cases, you should **not** file bankruptcy, even if you owe a lot of money.



Usually, you do **NOT** need bankruptcy in Tennessee if you answer **NO** to 4 questions. The 4 questions are:

1. Did you put anything up as security (collateral) that the creditor can take if you don't pay?
2. Do you earn more than \$154.50 per week? (This is after subtracting Social Security and taxes only.)
3. Do you own or are you buying a home or other real estate?
4. Do you have personal property (cars, furniture, cash, etc.) worth more than \$4,000?

Did you say “No” to all 4 questions? Then your creditors can't collect from you. They can still sue you, **BUT** you can **stop** them from collecting. You do this by giving the court a paper. You can do this yourself without a

lawyer. You only have a few days to file the paper, so do it right away. Call Legal Aid. Ask for our brochure called “Have You Been Sued? Here’s how to protect your bank account and belongings.” **DON'T** ignore it if you are sued! It is easy to protect your money or property **IF** you file the paper right away.

Don't let creditors or collectors abuse you over the phone. You can hang up on them if you want. Don't make any promise to pay that you may not be able to keep. Are you being abused by a collection agency or lawyer? Ask for our brochure “Bill Collectors Bugging You?”



Can you get rid of all your debts by bankruptcy?

No. Bankruptcy does **NOT** protect you from having to pay:

- Tax debts
- Alimony
- Child support
- Debts from doing something illegal.

You must still pay student loans. This is true **unless** you prove that repaying them would cause “undue hardship.” Also, you must still pay some debts you run up just before you file bankruptcy.

What happens when I file bankruptcy?

1. You **must** talk to an approved credit counselor 2 times. Your lawyer will give you a list of these approved credit counselors. The first time you talk to the counselor, they will give you a paper. The paper gives you an OK to file bankruptcy. The second time, they give you a paper saying you can get your bankruptcy discharge.
2. You must give your lawyer a list of **ALL** your debts. You must also give her a list of everything you own. You must tell her **everything** about your money situation. Bankruptcy protects you **only** from the debts listed on the bankruptcy paper.
3. Your lawyer will talk with you about two kinds of bankruptcy, Chapter 7 and Chapter 13. (See our other booklet on Chapter 13 Bankruptcy.)
4. The lawyer **writes your bankruptcy papers** (the petition) and other papers.
5. You read and **sign the bankruptcy papers**. You **pay the court filing fee**. The lawyer will tell you how much that is. You may not have to pay it all at once.
6. Your lawyer **files** the papers with the court.
7. The court **tells everyone** listed in your papers that you have filed bankruptcy. The Court also tells them when to come to the creditors' meeting.
8. You and your lawyer must go to the **creditors' meeting**. There, the bankruptcy trustee will ask you



questions to make sure your bankruptcy papers are complete and correct. Your creditors may also ask about your debts and what you own.

9. Once your bankruptcy is done, the court will **say you don't have to pay your debts** if:
 - There are no legal problems with your bankruptcy papers **and**;
 - Your debts are the kind that can be discharged.

How often can I take bankruptcy?

After filing Chapter 7 bankruptcy, you must wait 8 years before filing Chapter 7 again. **No** exceptions.

Will I lose everything if I file bankruptcy?

No. Bankruptcy is set up to give you a fresh start, not to totally wipe you out. You can keep:

- \$4,000 worth of personal property (cars, furniture, bank accounts, cash, etc.). Are you filing a joint bankruptcy with your husband or wife? Then each of you can keep \$4,000 in personal property.
- Your clothes
- Burial plot and
- Other things your lawyer will tell you about.

What about my house?

You can keep your home **IF**:

- the payments are up to date **AND**
- you don't have much equity. **Equity** is the value of the property today, minus what you still owe on it. Do you own the home alone? You can keep it if you have less than \$5,000 equity.



What if a husband and wife own the home jointly and file joint bankruptcy? To keep the home, they must have less than \$7,500 equity. If you are age 62 or older, you can have more equity.

Are your payments behind? **Or** do you have too much equity? **Then the court can sell your house.** Will you get any of the money if the court sells your house? If there is enough equity, you may get up to \$5,000 from the sale price. What if a husband and wife own the home jointly and file joint bankruptcy? If there is enough equity, they may get up to \$7,500 from the sale price. The rest of the money will go to pay your debts. What if there is money left over? You will get it.

Can I keep what I put up as collateral (security) on a loan?



To keep them, you will usually have to do 1 of 2 things. You can keep up your payments. Or, you can pay the lender the actual value of the property. Sometimes you can keep **household goods** put up as collateral without paying for them. But you **MUST** tell your lawyer you want to do this. Your lawyer has to file a paper with the court.

Can I be sued after filing bankruptcy?

Not for the debts listed in your bankruptcy. The minute the bankruptcy papers are filed, creditors must stop trying to collect. **While the court is deciding your bankruptcy,** creditors can't sue you or garnish your paycheck. They can't take your property or your home without the court's OK. The court gives its OK only in special cases. **After the bankruptcy is final,** you have no legal duty to pay the debts. Tell your lawyer if anyone later tries to collect those debts.

Can I list a debt in my bankruptcy papers even if I have already been sued on it?

Yes, you must list **ALL** your debts, including court costs, in the bankruptcy papers.

Can I list only the debts I don't want to pay?

No. You must list **ALL** the money you owe. This includes debts to relatives. It includes debts not put in writing. It includes debts you plan to pay later. You must even list debts that cannot be discharged by bankruptcy.



Should my husband or wife also file bankruptcy?

Not always. Your lawyer will tell you what to do on this.

Will I be able to get credit after I file bankruptcy?

Maybe. Some creditors will say you are a bad risk and won't give you credit. Others will be glad to give you credit but will charge you high interest. It is not a good idea to get more credit and pay high interest. Most of the time, your credit rating is not good before you file bankruptcy. A bankruptcy does not make your credit look better.

Is bankruptcy the best way to stop bill collectors from bothering me?



Not always. Just being bothered by bill collectors is not a good reason to file bankruptcy. There are other ways to stop collectors who bother you. (Ask for our booklet on bill collectors.)

Are there other ways to handle debt problems?

Yes. Bankruptcy is not always the best way.

You may be able to set up a plan to pay your debts in small payments. A consumer debt counseling service may help you set this up.

A "Slow Pay Motion" can help if you are sued over just one or two debts. This lets you make small payments through the court. (Ask for our booklet on garnishment.)

A Chapter 13 bankruptcy may be better for you than a Chapter 7. With a Chapter 13 bankruptcy you make one payment each pay period. This way you pay all or part of your debts. While you pay, your creditors can't take your property or your pay check.

Your lawyer may tell you about other ways to handle your bill problems.

Legal Aid Society

Of Middle Tennessee And The Cumberlandns

1-800-238-1443

It's a free call.

On the internet at www.las.org

This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. Revised 7/2006

Tennessee Legal Aid/Legal Services Offices

Legal Aid Society

of Middle Tennessee and the Cumberlandns

1-800-238-1443

**Offices in Clarksville, Columbia,
Cookeville, Gallatin, Murfreesboro,
Nashville, Oak Ridge, and Tullahoma**

West Tennessee Legal Services

Jackson Office 1-800-372-8346
Dyersburg Office (731) 285-8181
Huntingdon Office (731) 986-8975
Selmer Office (731) 645-7961

Memphis Area Legal Services

Memphis Office 1-888-207-6386
Covington Office (901) 476-1808

Legal Aid of East Tennessee

Knoxville Office (865) 637-0484
Johnson City Office 1-800-821-1312
Kingsport Office 1-800-821-1309
Chattanooga Office 1-800-572-7457
Cleveland Office 1-800-445-3219