

What is bankruptcy and how can it help?

It can be very stressful when you owe debts that you can't pay. However, there are laws that protect you and some of your property from your creditors.

Bankruptcy is a federal court process to help people get a fresh financial start. It works by getting rid of debt they can't manage or making arrangements to repay unmanageable debt. This is called "discharging debt." The person filing for bankruptcy is called the 'debtor' and the people or businesses owed money to are called 'creditors.'

The right to file for bankruptcy is governed by federal law, called the Bankruptcy Code. Bankruptcy cases are filed in federal courts. In most cases, once you file for bankruptcy your creditors have to stop trying to collect debts from you until the bankruptcy is complete.

Bankruptcy is not the right solution for every person. It can't fix every financial problem.

There are many rules you have to follow when filing for bankruptcy. It can be very difficult to file for bankruptcy on your own. It is often best to talk to a lawyer before filing.

Bankruptcy **may** make it possible for you to:

- Discharge most or all of your debts. "Discharge" is the legal term for getting rid of debt.
- *Temporarily* stop foreclosure on your house or mobile home. You may get a chance to catch up on missed payments. **Note:** Bankruptcy does not automatically get rid of your mortgage, liens on your property, or other secured debt, and does not automatically save your home from foreclosure.
- *Temporarily* stop repossession of your car or other property.
- Have creditors give back property even if it was repossessed.

- Stop debt collection. This can be things like wage garnishment, harassing phone calls, and other debt collection practices.
- Stop utility shut offs or turn utility service back on.
- Stop eviction if the “forcible detainer judgment” hasn’t been entered by a court.
- Get your driver’s license reinstated if it was revoked for a civil judgment you didn’t pay.
- Challenge creditors who try to collect more than you really owe or who have committed fraud

Bankruptcy Code says that certain debts cannot be discharged (wiped out). These debts include:

- Money owed for child support, alimony/maintenance, and certain other debts related to divorce
- Court restitution orders and criminal fines
- Some taxes
- Loans you got by giving false information (on purpose) to a creditor, who used that information to give you the loan
- Debts you have because of “willful and malicious” harm
- Most student loans
- Mortgages and other secured liens, including car loans, which are not paid in the bankruptcy case
- Debts created from large cash advances, from luxury purchases, or from many large charges to a credit card within 6 months of filing bankruptcy
- Debts created from theft or embezzlement
- Debts created because of DUI (driving under the influence)
- Debts owed to a pension or profit-sharing plan

Bankruptcy *can’t* help you:

- Get rid of a security interest, like a mortgage
- Stop you from getting evicted if the eviction court entered the order before the bankruptcy was filed

- Protect cosigners on loans, unless they also file bankruptcy
- Get rid of debts that you created after the bankruptcy is filed
- Get rid of debts that the court decides you can afford to pay

For more information and answers to common questions, visit KYJustice.org.

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