

BANKRUPTCY OFFERS FRESH START, BUT MAKES CREDIT DIFFICULT

Personal bankruptcy generally is considered the debt management option of last resort because the results are long-lasting and far-reaching. A bankruptcy stays on your credit report for 10 years. You also may have a difficult time obtaining credit, buying a home, getting life insurance or even getting a job.

Still, it is a legal procedure that offers a fresh start for people who can't satisfy their debts. People who follow the bankruptcy rules receive a discharge—a court order that says they don't have to repay certain debts.

TWO TYPES OF BANKRUPTCY

There are two primary types of personal bankruptcy: Chapter 13 and Chapter 7. Each must be filed in federal bankruptcy court. You will need to pay a fee of a few hundred dollars to file for bankruptcy. Attorney fees are additional and can vary by state.

Chapter 13 allows people with a steady income to keep property, like a mortgaged house or a car that they otherwise might lose. In Chapter 13, the court approves a repayment plan that allows you to use your future income to pay off a default during a three-to-five-year period, rather than surrender any property. After you have made all the payments under the plan, you receive a discharge of your debts.

Chapter 7, known as straight bankruptcy, involves liquidation of all assets that are not exempt. Exempt property may include automobiles, work-related tools and basic household furnishings. Some of your property may be sold by a court-appointed trustee or turned over to your creditors.

You now must wait eight years after receiving a discharge in Chapter 7 before you can file again under that chapter. The Chapter 13 waiting period is much shorter and can be as little as two years between filings.

BANKRUPTCY STOPS FORECLOSURES, DEBT COLLECTION

Both types of bankruptcy may get rid of unsecured debts and stop foreclosures, repossessions, garnishments, utility shut-offs and debt collection activities. Both also provide exemptions that allow people to keep certain assets, although exemption amounts vary.

Note that personal bankruptcy usually does not erase child support, alimony, fines, taxes and some student loan obligations. And unless you have an acceptable plan to catch up on your debt under Chapter 13, bankruptcy usually does not allow you to keep property when your creditor has an unpaid mortgage or lien on it.

CREDIT COUNSELLING REQUIRED

You must get credit counseling from a government-approved organization within six months before you file for any bankruptcy relief. You can find a state-by-state list of government-approved organizations at www.usdoj.gov/ust. That is the website of the U.S. Trustee Program, the organization within the U.S. Department of Justice that supervises bankruptcy cases and trustees. Also, before you file a Chapter 7 bankruptcy case, you must satisfy a "means test." This test requires you to confirm that your income does not exceed a certain amount. The amount varies by state and is publicized by the U.S. Trustee Program at www.usdoj.gov/ust. 

(Adapted from an article by the Federal Trade Commission.)

