



BANKRUPTCY MADE SIMPLE

A GUIDE TO FILING FOR BANKRUPTCY IN NEW JERSEY

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Introduction

Bankruptcy is a legal action designed to help debtors who can no longer pay their creditors. Bankruptcy laws also protect struggling businesses, and helps business creditors receive financial compensation through liquidation or reorganization.

The most common forms of bankruptcy filings are under Chapter 7, Chapter 11 and Chapter 13 of the United States Bankruptcy Code. When you file for bankruptcy, it stays, or stops, all debt collection attempts against you and your property. While the stay is in effect, the court investigates and holds hearings to determine the best course of action for both you and your creditors.

The following is a guide to filing for bankruptcy in New Jersey under the federal rules set forth in the Bankruptcy Code. If you need help with something that is not covered within this guide, it is advised that you speak with an experienced bankruptcy lawyer that serves your area.

Disclaimer

"Bankruptcy Made Simple" is presented as basic bankruptcy information. This book does not establish an attorney-client relationship and is merely for reference purposes only. No part of this book should be construed as legal advice. It is best to consult with an experienced attorney for case-specific advisement.

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The Steps to Filing for Bankruptcy

A bankruptcy claim cannot be filed at a state or municipal court, since bankruptcy cases are under the exclusive jurisdiction of the federal courts system. This means that, as a New Jersey resident, you must file your bankruptcy petition in one of three United States Bankruptcy Courts in New Jersey.

You can file a bankruptcy petition as an individual, a married couple, or a business/entity. Throughout the bankruptcy process, you will be required to provide detailed information about your finances, such as a list of assets, income and a list of your creditors and how much they are owed.

Gathering the Required Paperwork

Prior to filing a petition for bankruptcy, you must first learn what you need to do to properly begin the process. Before even meeting with a bankruptcy attorney, it is recommended that you gather information that will be helpful in your future bankruptcy filing. Documentation of the following will be needed to evaluate your financial situation: your current income sources, all financial transactions for the last two years, your monthly living expenses, your secured and unsecured debts, and a list of all of your property and assets. You must also provide copies of your tax returns for the last two years. Although it may feel like a long and stressful process, remember that the bankruptcy laws are designed to help people obtain a fresh start, as opposed to spending the rest of their lives being burdened by debts that they will never be able to pay.



Consulting with a Bankruptcy Attorney

After you decide that you are considering filing for bankruptcy, the first crucial step is meeting with a lawyer about your situation. Without question, hiring a bankruptcy attorney who is experienced in handling bankruptcy cases in the U.S. Bankruptcy Court, District of New Jersey is the best way to make sure that your bankruptcy case is completed successfully.

At your initial consultation with an experienced bankruptcy lawyer, he or she will explain to you that certain requirements must be met prior to filing for bankruptcy. Those requirements include mandatory credit counseling. Before filing your petition seeking bankruptcy protection, you must first receive credit counseling within 180 days before the date of your filing. You are permitted to complete this course over the phone, online or in person.

Filing the Bankruptcy Petition

Once you have completed the above steps and you are ready to start your bankruptcy proceeding, you will file a petition for bankruptcy with the help of your New Jersey bankruptcy lawyer in the appropriate court. A schedule is included along with the petition, which lists all of your assets, liabilities and other financial information. If you are a resident of North Jersey, your petition will be filed at the Newark Bankruptcy Court. Residents of Central Jersey will file at the Trenton Bankruptcy Court and South Jersey residents file at the Camden Bankruptcy Court.

Your bankruptcy petition consists of official bankruptcy forms, local forms and procedural forms. The official forms are required by the Judicial Conference of the United States at the federal level, while local forms are specific to the requirements of the District of New Jersey's Board of Judges. There are a large number of forms for each category, all requiring detailed and complex information. It is therefore advised that you receive assistance from a lawyer in order to complete them accurately.

Once you file your petition, the court will order a "stay" on all debt collection attempts against you or your property. Creditors will receive a notice about your bankruptcy petition, and will be required to stop all lawsuits, wage garnishments, phone calls, etc. in an attempt to collect on your debt.

Court Fees

Court fees vary depending on which Chapter of the Bankruptcy Code you are filing under. A Chapter 7 bankruptcy filing requires a \$245 filing fee, \$46 administrative fee and \$15 trustee surcharge. The fee is much higher for a Chapter 11 bankruptcy, which requires a \$1,167 filing fee and \$46 administrative fee. Chapter 13 filings cost \$235 for the filing fee and \$46 for the administrative fee.

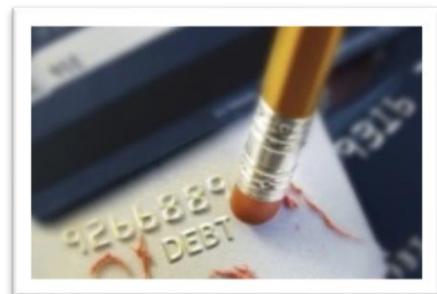
If you cannot pay the entire fee upon filing, you must seek the court's permission to pay the fee in installments. No matter which Chapter of bankruptcy you are filing under, the fee must be paid in no more than four installments, with the final installment being paid no later than 120 days from the date of your filing. Please be aware that failing to pay any of your installments could result in a dismissal of your case. The only exception to the fee requirement is for Chapter 7 debtors whose income is 150% less than what the Bankruptcy Code defines as the poverty level.

The Meeting of Creditors

Next, you will be required to attend a meeting of creditors, called the "341 meeting". At this meeting, creditors will be allowed to ask you questions regarding your debts and assets to determine if they wish to file any claim with the Bankruptcy Court in order to prevent their debt from being discharged. Often times, the creditors do not appear at this meeting. In a Chapter 13 bankruptcy, you will be required to attend a plan confirmation hearing wherein the court makes a determination as to whether or not they will accept the plan.

Getting Your Debts Discharged

It is important to understand that filing for bankruptcy does not automatically discharge you of your debts. Certain debts are not dischargeable by law, and cannot be filed as part of a bankruptcy petition. You must also meet certain requirements before and after filing your petition in order for to be granted a discharge of your eligible debts. In New Jersey, debtors filing for personal bankruptcy are required to undergo credit counseling within 180 days prior to filing a bankruptcy petition. After you file, you must also enroll in debt education, which must be completed in order for your debts to be discharged. The credit counselor and debt educator must be listed in the U.S. Trustee Program's official list of course providers in order to be recognized by the court.



Which Chapter Should I File Under?

Chapter 7 Bankruptcy

A Chapter 7 bankruptcy provides for “liquidation”, which is a selling of your non-exempt property in order for the proceeds to be distributed to your creditors. To be eligible for Chapter 7 bankruptcy, you must have undergone credit counseling with a U.S. Trustee-approved credit counselor within the six months prior to your filing date. If you and your counselor develop a debt management plan during the course of your credit counseling, you must submit this information to the court.

The Appointment of a Bankruptcy Trustee

When you file a Chapter 7 bankruptcy petition, the Department of Justice’s U.S. Trustee program appoints a case trustee to liquidate your non-exempt assets. If all of your assets are exempt, the trustee will file a “no asset” report, which is typical for cases involving individual debtors. If there are non-exempt assets, the case trustee is responsible for liquidating the assets in order to compensate the creditors. In a case where the debtor is a business, the trustee may also be authorized to manage the business if it will enhance the liquidation, and thus benefit the creditors.

Chapter 7 bankruptcy can discharge you from most of your debts, although there are some exceptions. Some reasons a discharge of debt may be denied include failing to submit adequate financial records, concealing assets that should have been disclosed as property of the estate, and committing perjury. Since there are many reasons for why a debt may not be discharged, it is important to seek legal counsel to ensure that you are in full compliance.

Seek Legal Advice on Chapter 7 Bankruptcy

The District of New Jersey’s U.S. Bankruptcy Court website advises, “[b]ecause bankruptcy can have serious long-term financial and legal consequences, including loss of your property, you should hire a lawyer and carefully consider all of your options before you file.” The United States Bankruptcy Court website is a valuable resource for information about bankruptcy and court procedures. However, it is meant to be used as a reference tool, in conjunction with guidance with from a bankruptcy attorney.

Chapter 11 Bankruptcy

A Chapter 11 bankruptcy claim, also known as a “reorganization” bankruptcy, is normally filed on behalf of a business, such as corporations and partnerships. This form of bankruptcy allows your business to continue operating and retain its employees, while a plan of reorganization is drafted between you and your business creditors. The ultimate goal of filing under Chapter 11 is to make the business profitable enough to eventually pay back your creditors without losing the business as a whole.

Developing a Reorganization Plan

This type of bankruptcy is more complicated than a Chapter 7 in that it typically involves very large debts to many creditors. Your credit counseling requirements are more complex as well, since you are allowed to formulate a reorganization plan with your credit counselor. If you do so, you must

submit a copy of this plan for the court's consideration, along with your certificate of credit counseling.

The creditors also play a much larger role in a Chapter 11 case, since creditors holding the seven largest unsecured claims against you will be appointed by the U.S. Trustee as a creditor's committee. The creditor's committee acts as an important safeguard in making sure that you are running your business properly. The committee will participate directly in the drafting of your reorganization plan, and is allowed to investigate your actions as it pertains to the business.

Getting Your Plan of Reorganization Approved

If there are no causes for dismissal or conversion, you or the trustee will proceed to formulate a plan of reorganization. The court will expect the plan to be filed within 120 days after the filing of your bankruptcy petition. However, the court may grant an extension of up to 18 months, and also extend the deadline for the plan acceptance. It is recommended that you seek extensions for both the plan filing and plan acceptance deadlines at the same time. The reason for doing so is that you technically have 60 days (2 months) after the plan filing date to gain approval. Thus, obtaining both deadline extensions at the same time will ensure that you definitively have 2 months in which to gain approval of your plan.

Plan approval is a time-consuming process, especially because more than one plan may be presented at the same time. This can happen if you do not file and obtain approval of your reorganization plan before the deadline. In that case, the creditor's committee, or one of the creditors can file their own plan of reorganization. If there are competing plans that all meet the requirements for confirmation, the court must defer to the plan that is in the best interest of the creditors. Working with a lawyer can help you file your plan of reorganization in a timely manner, without errors or missing information that can cause your plan to be rejected. It is also the best way to ensure that your rights are fully protected as you negotiate the terms of your plan with the creditor's committee.

Once the plan is confirmed, you are likely to be discharge of all debts that arose before the date of the plan confirmation. The plan's terms will also supersede any pre-bankruptcy contracts between you and your creditors. However, there are certain debts that are non-dischargeable, which are described in Section 523 of the Bankruptcy Code. Such debts include domestic support payments (alimony, child support) and payments for criminal restitution. Debts are also non-dischargeable if you had filed as a business and chose a liquidation plan, as opposed to a plan of reorganization.

Conversion from Chapter 11 to Chapter 7

The conversion process allows you to switch from a Chapter 11 case into a Chapter 7. Such an option may become necessary, especially if you are filing as an individual as opposed to a business. This option is available only once throughout your bankruptcy, and you must show legitimate cause for why the conversion is necessary. If the court agrees that a cause has been established, a hearing will be held to determine if the conversion will be allowed. Since conversion is a one-time only option, you should always consult your attorney before requesting a conversion of your bankruptcy case.

Chapter 13 Bankruptcy

If you earn a regular income and feel that you can repay debts in a few years, you may want to consider filing for Chapter 13. This form of bankruptcy will allow you to keep your property and assets under the agreement that you will repay your creditors within a certain period of time (usually 3 to 5 years). As with Chapter 7 and 11, you will need to complete credit counseling with a U.S. Trustee approved credit counselor within 180 days prior to the filing of your petition.

Save Your Home from Foreclosure

One great advantage of a Chapter 13 bankruptcy is that it will save your home from foreclosure, since you will be able to pay delinquent mortgage payments over a set period of time. You will also be able to reschedule payments for secured loans, which may result in lower payment installments. Another significant advantage is that you do not need to work directly with your creditors, as you would under Chapter 11.

Generally, your creditors cannot contact you while you are in the process of completing a Chapter 13 bankruptcy, since the court will issue a “stay” (stop) on all collection attempts. All payments while under Chapter 13 are made to the case trustee, who will then forward the payments to the creditors. This form of bankruptcy may even protect your co-signers, since there is a special provision for third parties who are liable for your consumer debts.

Chapter 13 Bankruptcy Exceptions

Despite its many advantages, there are important exceptions that apply specifically to Chapter 13 bankruptcies. For instance, if you are married, you must file income and expenses information for your spouse, even if you are filing as an individual. This information is required because the court needs to consider your overall household income in the formulation of a repayment plan. There are also certain debts that may not be excused from collection attempts, and stays over collection attempts may only last for a limited period of time. Other exceptions and procedures can be explained in detail by a knowledgeable bankruptcy attorney.

Formulating a Repayment Plan

A lawyer can also assist you with drafting a repayment plan, which must be filed with your bankruptcy petition or within 14 days after the filing of the petition. You will need to organize your debts into 3 categories: priority, secured and unsecured. The plan will also need to detail if you wish to keep the collateral held under a secured debt, such as a car.

Unsecured claims do not need to be paid in full as long as the creditors receive at least as much as they would if your assets were liquidated under Chapter 7. Your attorney will help you categorize your debts and determine how to handle your secured claims. This is a complicated procedure since there are many factors to consider, such as payment history, disposable income and how long ago the debts were incurred prior to the filing of your bankruptcy petition.

Navigating the Bankruptcy Courts

The United States Bankruptcy Courts for the District of New Jersey are located in Newark, Trenton and Camden. The District of New Jersey's official website (<http://www.njb.uscourts.gov/>) is a valuable source of information on New Jersey's bankruptcy courts, and includes general information on the bankruptcy filing procedures. It also has links to all of the required federal, local and procedural bankruptcy forms.

Currently, there are 9 judges in total who hear bankruptcy cases in New Jersey. When you choose a hearing date, it must be in compliance with your judge's schedule. Although actions such as modifications to a plan and requests for plan conversion require a hearing, certain actions do not. Applications for actions such as an Order to Show Cause, Application for Compensation Under \$1,000 and Cross Motions for issues that are already scheduled for a hearing can simply be filed at the court office.

Viewing Case Information and Documents

The website also has a link to view case information and filed documents under the CM/ECF file system. In order to use this system, you must have a PACER (Public Access to Court Electronic Records) login, and pay an access fee of \$0.10 per page, or \$2.40 per document, which comes with an audio attachment.

You can also obtain limited case information through the VCIS (Voice Case Information System). This system can be accessed by calling (866) 222-8029 and entering the New Jersey court code #88 after the initial greeting. Although the service is quite limited, it still provides some valuable information such as filing date, asset designation and case status.

You can also view and obtain copies of documents at the courthouse public terminals, which are located in the Clerk's Office. You will be charged \$0.10 per page, should you need to print any documents.

The final options for obtaining documents from your case file are to request a photocopy directly from the court clerk, or by mailing a written request to the court office. The current cost for photocopies of case file documents is \$0.50 per page.

The District of New Jersey Courts system does not accept payment in the forms of cash or personal checks. All payments must be made in the form of certified check, money order, pre-approved credit card, corporate check, or an attorney account check.

If you need to order transcripts of your court hearings, you will need to contact the Court Recording Operator for the judge who proceeded over your hearing. The name of each judge's corresponding Court Recording Operator with his or her contact information can be found under the "Case Info" link on the District of New Jersey's United States Bankruptcy Court home page. This link also gives you the option of downloading the Court Recordings Audio Player, for which you will need to register with the FTR (For the Record) system, which is an online digital evidence recording platform.

Common Myths About Bankruptcy

Myth 1: Filing for Bankruptcy Means You're Irresponsible

The prevailing myth is that many people filing for bankruptcy are simply irresponsible, and are completely at fault for their financial dilemma. However, many people who file for bankruptcy have been affected by legitimate, unforeseen circumstances. For instance, a period of economic depression can cause mass layoffs and long term unemployment. If an economic recession continues for a period of several years, many people have no choice but to eventually file for bankruptcy. Another unfortunate case is a divorce, in which a person goes into massive debt from legal fees and the cost of having to provide financially for two households. There are also situations in which an individual becomes seriously ill and is overwhelmed by mounting medical debts.

Myth 2: You Will Lose All of Your Assets During a Bankruptcy

Although filing for bankruptcy can certainly relieve many financial burdens, it can also have negative long-term consequences, such as loss of your home and other property. However, there are exemptions that can help you protect certain assets such as a house, car, or retirement plan. Your lawyer can discuss these exemptions with you in detail, and file the necessary paperwork to ensure that your key assets are protected. Even in the case of a Chapter 13 bankruptcy, in which you are allowed to keep your home, you must continue to make timely payments for a period of three to five years. This could mean that you and your family will have to live a very moderate lifestyle for a period of time.

Myth 3: A Bankruptcy Will Remove All of Your Debts

Another common myth is that bankruptcy will discharge all of your debts. However, ongoing payments for domestic support, such as alimony and child support, are non-dischargeable. You also cannot be discharged of debts due to negligent or criminal behavior on your part, such as causing personal injury or death. The courts also penalize debtors who are shown to have recklessly charged large amounts on their credit cards right before filing their bankruptcy petitions. This is considered fraud, and debts incurred through fraudulent means cannot be discharged.

Myth 4: Bankruptcy Permanently Damages Your Credit

One inevitable long-term consequence of bankruptcy is damage to your credit. All Chapter 7 bankruptcy information stays on your credit for 10 years, and all other bankruptcy records remain for 7 years. This information is indicated on your credit reports by references such as "account included in bankruptcy", and will result in a low credit score as long as the information remains on your reports. You will also have to take your spouse's credit into consideration as well. If you and your spouse share one or more joint accounts, your bankruptcy filing could show up on his or her credit report, even if you file as an individual.

However, this damage is not permanent, especially if you take the right steps to build up your credit. One method recommended by financial experts is to sign up for a secured credit card, which requires a deposit. The card has low limits, and can usually be paid off in 6-12 months as long as you keep your balance low and make regular payments. After you have paid off a secured credit card, you are much more likely to qualify for an unsecured credit card, which does not require a deposit.

However, you must continue to make timely, consistent payments in order see an improvement in your credit score. It is also important to check your credit report frequently to verify that your debts have been discharged. By working out a post-bankruptcy plan with your lawyer, it is possible to improve your credit score and qualify for major purchases such as a house within a few years.

Consult with a Bankruptcy Lawyer

Often, preconceived notions of bankruptcy either prevent debtors from taking action, or cause them to suffer long-term damage brought on by an unnecessary bankruptcy filing. A bankruptcy proceeding involves some time and costs, so you should consider all other available options before choosing to file. An experienced attorney can advise you on these alternatives and help you decide if bankruptcy is truly your best option.

Restoring Your Credit After Bankruptcy

Many people believe that bankruptcy will destroy their credit and make it impossible to get approved for credit cards, loans and mortgages in the future. While there is some cause for concern in the short term, bankruptcy may actually help boost your credit score over time. Credit scores are made up of a number of factors. First, a credit score takes into account your payment history and habits. If you cannot afford to pay your bills on time because of financial hardship, your credit score will take a hit. Secondly, your credit score takes into account your debt-to-income ratio. Owning credit cards that are nearly maxed out will also harm your credit score.

Bankruptcy can actually help to resolve these problems. Chapter 7 or Chapter 13 bankruptcy filings will help you to either discharge your debts or reorganize your payments. With debt being discharged and payments becoming more manageable, you will no longer make late payments and will improve your debt-to-income ratio.

The Process of Rebuilding Your Credit After Bankruptcy

After you have successfully gone through your bankruptcy case, credit card companies and other lenders may be willing to offer their services because you will be either on your way to becoming, or are already, debt free. This enables you to borrow more. Furthermore, lenders or creditors know that you will not be able to file for bankruptcy again for some time, and will therefore be willing to lend.

This may seem like a predatory lending practice, but it also helps the debtor rebuild their credit if they do not fall back into the same traps that got them into trouble in the first place. At first, you may have to start rebuilding with low credit limits and/or high interest rates, but as you boost your credit score, better offers will be easier to come by. While a bankruptcy filing will appear on your credit report, it will become increasingly less important as your borrowing practices improve.

Tips to Restoring Credit After Filing for Bankruptcy

- **Do not to close any accounts after you open them.** Closing a credit account can show up as a black mark on your credit. To avoid any temptation to use a credit card, simply cut up the card but do not close out the account completely.
- **Make your payments in full and on time.** After completing the bankruptcy, you may wish to add a loan down the road, such as a car loan that you can afford. Be sure that you make the payments as required to further improve your credit score over time.
- **Avoid debt consolidation offers from finance companies.** You may also want to open new checking and savings accounts which will serve as a basis for your new life after a bankruptcy. Debt consolidation offers typically carry a hefty interest charge. The last thing you want to do is to get back into the situation that caused you to file for bankruptcy in the first place.
- **Periodically review your credit report.** Checking your credit will ensure that your credit is continuing to improve and that there are no mistakes in your credit history that could be damaging. A great website where you can obtain a free credit report from each of the three agencies is www.annualcreditreport.com.



- **Prepare a budget.** Recognize and know your limitations with respect to your budget and the amount of money that you have available to spend. When rebuilding new credit you should be careful, as the credit card companies are more than cognizant of the fact that you can only file for Chapter 7 bankruptcy once every eight years. Therefore, they may be more inclined to lend you more money than you had prior to filing for bankruptcy as you will not be able to discharge any debt for a significant period of time.

It is important to use the Bankruptcy Code as it is intended: to obtain a fresh start. This means that you must avoid the practices that got you into the position that led to a bankruptcy petition. Paying credit cards and other bills on time will greatly improve your credit score. Paying off your balances each period and not approaching the credit limit will also help. Another great way to improve credit is by using a gasoline card, individual store credit cards and even secured credit cards. Once your practices improve with these lenders, they may offer you better credit cards with lower interest rates and high credit limits.

Other Options

Credit Card Debt Settlement

Most individual debtors owe debts for large credit card balances that they can no longer pay off. It becomes especially overwhelming when compounded late fees and interest continue to accrue, thus making it even more difficult to pay off your debts. If you are in this situation, a debt settlement company can seem like an appealing solution.

How Debt Settlement Companies Work

A debt settlement company attempts to negotiate a settlement with your creditors, thereby “settling” your debt for an amount that is less than what you owe. The settled amounts are combined into a lump sum, and will be paid out of an escrow-like settlement account, into which you have made deposits on a monthly basis. This sounds like a simple and sensible solution, but there are many factors you need to consider.



As a general rule, most debt settlement companies ask you to set aside a specific payment amount every month into an escrow account. This is done while the company attempts to negotiate a settlement amount with your creditors, with the intent that the money will be there to pay off the settlement once it's finally achieved. The problem is that most of these companies require you to pay into these accounts for at least 36 months before all your debts are actually settled. If you are having problems making consistent monthly payment on your credit cards, chances are you will also have problems making timely payments to a debt settlement company. Many debtors end up pulling out of the program before any settlement attempts are made, and are no closer to managing their debts than they were before.

Avoid the Scams of Debt Settlement Companies

According to the National Association of Bankruptcy Attorneys, only 1% of consumers who participate in a debt settlement program actually end up debt-free in the promised period of time. Debt consolidation companies often promise more than they can deliver. Unfortunately, individuals who have a lot of debt are vulnerable and, as a result, while trying to eliminate their debt they may be charged outrageous fees. There are currently over 1,000 debt settlement companies operating in the United States. Debt settlement companies are regulated by state Attorney Generals and the Federal Trade Commission, however they are rarely prosecuted for any wrongdoing.

Negotiate Credit Card Debt with Help from a Bankruptcy Attorney

If you are facing financial difficulty and would like to explore the option of credit card debt negotiation, you should seek the help of a bankruptcy lawyer rather than using a potentially fraudulent company. An experienced bankruptcy attorney will be able to guide you through the debt negotiation process and assist you in determining if this is the right option for you.

It is understood how easy it is to fall behind on your credit card payments. An attorney experienced in negotiating with credit card companies may be able to develop a more reasonable payment plan

for you. There are often several potential options as it relates to your debt situation, including, but are not limited to, reorganizing your unsecured debt, determining whether or not a bankruptcy filing is a more viable alternative, and negotiating on your behalf with credit card companies to develop a more reasonable payment plan.

Although all other options should be considered prior to filing for bankruptcy, in some cases it is the most sensible option. A consultation with an attorney experienced in bankruptcy filings can help you decide if bankruptcy is the best course of action to resolve your debts.

Loan Modification

A bankruptcy may affect your ability to qualify for a loan or mortgage modification for a period of time after filing. A loan modification is a change in the terms of a borrower's plan that results in a payment schedule that the borrower can afford. In the past, loan modifications were only for homeowners who were already in default, meaning their lending company had filed a motion for foreclosure. However, some companies are now starting to work with homeowners earlier, letting them apply for loan modification as early as 30 days or less after a missed payment.



There is an option to “reaffirm” your mortgage during a bankruptcy proceeding, which must be granted by the judge. This agreement means that the bank must continue to accept modified monthly payments from you, and allow you to acquire equity and stay in your home.

You should have a thorough discussion with your attorney before agreeing to a reaffirmation plan, since there are additional penalties for which you may be liable if you default on a reaffirmed mortgage. Before considering getting a reaffirmed mortgage, be aware that banks generally do not approve modifications on reaffirmed mortgages, and borrowers who have reaffirmed a mortgage under Chapter 7 are not eligible for a HAMP assisted loan modification.

The federal government's Home Assisted Modification Program (HAMP) can help lower monthly mortgage payments for currently employed homeowners. As of June 2012, the Obama Administration loosened the guidelines for HAMP eligibility, thus making it possible for more homeowners to qualify. For instance, you may now be eligible for a loan modification on a home that you own as a rental property, and do not necessarily have to meet the standard income to debt ratio of 31% or less. You are allowed to apply for a HAMP loan modification after you file for bankruptcy, but you must inform your lawyer if you do so. Your lawyer is mandated to notify the judge and case trustee of this action, since the court reserves the right to veto any of your credit related decisions.

If at all possible, it is recommended that you wait until your debts have been discharged before seeking a loan modification. This means foregoing the option to reaffirm your mortgage, and making the necessary sacrifices to continue making your regular payments. Most debtors are under the impression that they have to reaffirm their mortgage during a bankruptcy in order to hold onto their homes. However, it is unlikely that the court or your mortgage lender will take actions to seize your home if you are making full and timely payments.

If you choose to file for a loan modification after emerging from bankruptcy, there are some important details to consider. First and foremost, you must be behind in your mortgage payments in order to apply for a loan modification. This rule has led to some homeowners purposely not paying their mortgage in order to qualify, which is not recommended because of the resulting damage to one's credit. Due to the heavy volume of applications, you should be prepared to wait at least several months on average to find out if you are approved.

Keeping an open dialogue with your attorney during your bankruptcy proceedings can help you emerge from bankruptcy with the least amount of damage. Bankruptcy affects many areas of your life, so important decisions, such as loan modifications during or after bankruptcy, should be discussed with your lawyer. Taking the time to obtain legal advice can ensure that you avoid serious consequences, such as losing your home and further ruining your credit.

Conclusion

Filing for bankruptcy is a complex process, requiring legal knowledge. The United States Court system strongly recommends hiring a bankruptcy lawyer to handle your bankruptcy filing. If you are in need of a knowledgeable New Jersey bankruptcy attorney, contact the law firm of Villani & DeLuca. A free consultation will help you fully understand your rights and protect your assets.

If you are a New Jersey resident considering filing for bankruptcy, call (732) 965-3390 today or visit www.bankruptcymadesimple.com for more information.