

## Exempt Property You Can Keep in a Chapter 7 Bankruptcy

In many cases, you will be able to keep all of your property. Under bankruptcy law, you are allowed to “exempt” or keep certain property from claims of your creditors.

Here are examples of what you may keep in Ohio:

- \$20,200 in equity in your home
- \$3,225 in equity in your car
- \$525 per item in any household goods up to a total of \$10,775
- Money received as Social Security, Veterans benefits, public assistance, pensions and some similar types of income
- Money received as Earned Income Credit and Child Tax Credit
- Retirement funds

If a husband and wife file bankruptcy together, the amounts listed are doubled.

The value of property is not the amount you paid for it, but what it is worth now. Especially for furniture and cars, the current value may be a lot less than what you paid or what it would cost to replace them.

Property that is not exempt may be sold and the money from the sale is distributed to your creditors.

## Why You Might Not Have to File Bankruptcy

You may not have to file, if:

- You have only a few debts and have strong defenses to each. That means that you have a good legal reason **not** to pay the debt. For instance, you borrowed money to buy a car and it is a lemon. Instead of filing a bankruptcy petition, you can raise your claims and defenses against the manufacturer, dealer and your creditor if you are sued or try to reach an agreement with them.
- Your after-tax pay is so low that your wages legally cannot be garnished.
- You do not own your home.
- You can afford to pay all of your current debts or bills without hardship.
- All of your income or assets are from Social Security, Veterans benefits, public assistance or unemployment compensation or, in some instances, a pension, alimony or child support.
- You owe only for medical bills. Medical creditors who get a judgment against you cannot force the sale of your house. Any court orders to pay them will have no effect until your house is sold or transferred. (But if your wages are garnished for medical bills, then filing may be wise.)

### REMEMBER:

*The law often changes and each case is different. This pamphlet is meant to give you general information and not specific legal advice. For advice about filing bankruptcy, consult an attorney.*

*If you have a communications limitation, contact us through the Ohio Relay Service. Interpretation services are available so that anyone can communicate with us in his or her dominant and/or preferable language.*



The  
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of Cleveland  
Since 1905

*This brochure was prepared by  
Legal Aid which serves low-income  
residents of five counties.*

### Cuyahoga County & Administrative Offices

1223 West Sixth Street  
Cleveland, OH 44113  
Phone: 216.687.1900  
Toll-Free: 888.817.3777  
Fax: 216.687.0779

### Ashtabula County

121 East Walnut Street  
Jefferson, OH 44047  
Phone: 440.576.8120  
Toll-Free: 866.873.9665  
Fax: 440.576.3021

### Lake & Geauga Counties

8 North State Street, Suite 300  
Painesville, OH 44077  
Phone: 440.951.7240  
Toll-Free: 888.808.2800  
Fax: 440.352.0015

### Lorain County

538 West Broad Street, Suite 300  
Elyria, OH 44035  
Phone: 440.323.8240  
Toll-Free: 800.444.7348  
Fax: 440.323.8526

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# Bankruptcy for Low-Income Persons



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## What is Bankruptcy?

Bankruptcy is a Federal Court action that may allow people who cannot pay their bills to get a fresh financial start. Filing bankruptcy stops all creditors (people to whom you owe money) from trying to collect debts from you, at least until your debts are sorted out by law.

The decision to file for bankruptcy should be made only after careful thought, **after you have talked with an attorney** and after you determine it is the best way to deal with your financial problems.

## What It Costs and Some New Rules

There is a fee for filing a bankruptcy petition in Federal Bankruptcy Court. However, prepayment of the fee may not be required for low-income persons.

Under the 2005 amendments to the Bankruptcy Law, you must receive a briefing from an organization approved by the court before you file.

The 90-minute briefing may be in-person, on the telephone or through the internet. It must outline opportunities for credit counseling and assist you in performing a budget analysis. The counseling must be provided to you even if you cannot pay for it. You also must complete a personal financial management course later in the bankruptcy process.

## Types of Consumer Bankruptcy

Chapter 7 and Chapter 13 are sections of the Federal Bankruptcy Law that are used for different circumstances.

### Chapter 7

**Chapter 7** bankruptcy eliminates or “discharges” debts. Whether you can file under Chapter 7 depends on your income. If your income is above the limit set by the law, you will have to file under Chapter 13 and pay at least a part of your debts. If you qualify for Legal Aid’s services, you probably will qualify for a Chapter 7.

Under Chapter 7, if you have property, you may have to give it up. However, there are ways you may be able to keep your property.

Many low-income debtors have no property that they would lose because what they have is exempt. The law allows you to keep exempt property. **Exempt property is explained on Page 5.**

Non-exempt property may be sold by the Chapter 7 trustee who will distribute the money to your creditors. The rest of your debts—the ones for exempt property and debts not connected with property—will be “discharged” so you never have to pay them.

### Chapter 13

**Chapter 13** allows you to pay your debts from your current income over three to five years. The big advantage of Chapter 13 is that it gives you a chance to keep your home or car by letting you catch up on certain past due amounts while making current payments.

**To file under Chapter 13, you need a regular source of income that is enough to support the payment plan which the court must approve.**

While paying into the plan for past debts, you also must keep up payments to secured creditors. A “secured” creditor is one for whom you have put up property as collateral for a mortgage, lien or a loan.

The most common examples of collateral are cars for car loans, houses for home mortgages and furniture for time payments or loans.

In Chapter 13, you normally pay only a percentage of what you owe to unsecured creditors. At the end of the plan, any part of the unsecured debt that wasn’t paid will be “discharged.”

Under the 2005 bankruptcy law, more people will have to file under Chapter 13. That is because their income is more than the median income for the state in which they live.

## What Bankruptcy Can Do

*This is what bankruptcy can do for you:*

- It can eliminate most or all of your debts in a Chapter 7 bankruptcy which is explained on Page 2. This is called a “discharge” and is meant to give you a fresh start.
- It can stop wage garnishment, debt collection and harassment.
- It can restore your phone, electric or gas service after payment of a security deposit or stop utilities from turning off your service.
- It can allow you to get back your drivers license if it was suspended because you did not pay a debt related to an uninsured accident, but only if you get insurance.
- It can fully or partially discharge some student loans, but only if you can prove you will suffer undue hardship if you are required to pay.

## What Bankruptcy Cannot Do

*This is what bankruptcy cannot do:*

- It cannot eliminate child support, alimony, court restitution orders, criminal fines, debts for personal injuries resulting from driving while intoxicated (DWI), certain taxes, debts obtained by fraud and debts for causing willful and malicious injury and for certain intentional acts.
- It cannot protect cosigners on your debts. When someone has cosigned for a debt, the cosigner still may have to repay all or part of the debt even though you have discharged it in bankruptcy.
- It cannot discharge debts you get after your bankruptcy petition has been filed.
- It cannot eliminate certain rights of secured creditors. For instance, if a creditor has a secured interest such as a house mortgage or car or furniture lien, it can take back your house, car or furniture unless you can make the payments set up by the bankruptcy court. In general, you cannot keep the collateral (for example; the car, house or furniture) unless you continue to make payments.