

Chapter 7 Bankruptcy

Chapter 7 bankruptcy referred to as liquidation. It is often called that because a bankruptcy trustee can liquidate (convert to cash) your non-exempt assets to cover part of your outstanding bills. However, the term liquidation is not quite accurate, since most people who file for Chapter 7 bankruptcy do not have any non-exempt assets, and thus there is no actual liquidation.

How Long Will My Chapter 7 Bankruptcy Cases Take?

Most Chapter 7 bankruptcy cases move relatively quickly, and it's possible that you'll receive your discharge in just a few months. A discharge means the successful removal of unsecured debts like credit card debt, medical bills, most personal loans, and judgments resulting from car accidents, deficiencies on repossessed vehicles, some older tax debts, payday loans, and garnishments. Certain debts are classified as "non-dischargeable," which means they can't be discharged, or only under special circumstances like child support, most student loans, and many tax debts.

What Are the Costs Associated with Filing for Chapter 7 Bankruptcy?

If you're interested in filing for Chapter 7 bankruptcy, you will ask about how much the process will cost. You can view current Chapter 7 bankruptcy fees right here. (Any price quoted for Chapter 7 bankruptcy is subject to changes that will be listed on the website of the U.S. Bankruptcy Court).

Step 1: The Chapter 7 Bankruptcy Means Test

Qualification for Chapter 7 bankruptcy is the first step to filing, and in order to figure out if you do qualify, you must go through the steps of the Chapter 7 means test. If you remember the media hype about the Chapter 7 bankruptcy means test disqualifying lots of people who wanted to file for Chapter 7 bankruptcy when it first went into effect in 2005, you should know the facts. The truth is that more than 96% of potential Chapter 7 petitioners do qualify, and in the unlikely event that you are one of those few who do not, you may still be able to file under Chapter 13 bankruptcy.

The Chapter 7 means test itself is a two-step process. You start with a median income comparison, which compares your monthly income to the median income of a family that is the same size as yours in your state. If your monthly income is at or below the median income, you qualify for Chapter 7 bankruptcy. If your income is higher than the median income, it doesn't mean that you can't file for Chapter 7 bankruptcy, but you have to complete the second step of the Chapter 7 bankruptcy means test.

The second step of the Chapter 7 means test involves calculating disposable income and unsecured debts. According to the test, if your disposable income over the next five years is less than \$6,000 (\$100/month), you "pass" the Chapter 7 bankruptcy means test and qualify for Chapter 7. A local bankruptcy attorney can help you understand which part of your income is disposable for the calculation. If your disposable income during that five year period is greater than \$6,000 but less than \$10,000, you may still be able to file for Chapter 7, depending upon your allowed expenses.

Is bankruptcy right for you?

Chapter 7 bankruptcy may be the right option for those who:

- ✦ Have no income or low income
- ✦ Have little or no money left after paying your necessary living expenses each month
- ✦ Have few assets (or no assets) outside your furniture, clothing and other necessities
- ✦ Rent or have little equity in your home

Step Two: Credit Counseling Briefing

Federal law requires that you receive a Credit Counseling Briefing from a certified credit counseling agency prior to beginning action on a Chapter 7 bankruptcy petition. This briefing includes a section on financial management and how to create a personal budget, and will also discuss alternatives to bankruptcy. While there are some hardship exceptions to this rule, most debtors will have to get this briefing, and failing to do so before filing may result in your case being dismissed. Your Chapter 7 bankruptcy lawyer may refer you to the appropriate agency, or you can purchase an approved Credit Counseling Briefing online at www.StartFreshToday.com.

Step Three: Filing for Chapter 7 Bankruptcy

After first completing your credit counseling session and providing all appropriate records and financial information, your attorney will assess your situation and draft a bankruptcy petition. Your personal financial information, including all of your income, assets, expenses and debts, will be required on your bankruptcy petition and on any related forms and schedules. You will also have to include any applicable exemptions to which you are entitled.

You might be wondering how important it is to disclose all of your debts when seeking to file for Chapter 7 bankruptcy. Whether a failure to list certain debts is an honest mistake or a deliberate action, trustees view bankruptcy fraud very seriously, and you can be prosecuted even if it was a simple error that went uncorrected.

At this point, your attorney will file the petition in local bankruptcy court, which will appoint a bankruptcy trustee to your case. In most cases, the court will also grant you an “Automatic Stay”, which means that creditors are temporarily prevented from taking further action against you outside of bankruptcy court.

The Final Step: Debtor Education

Even after discharge, there is one more mandatory step. You must complete an approved Debtor Education Course, a personal financial management course required by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. Your lawyer will be able to refer you to an approved financial management class, or you can find an approved Debtor Education Course online at www.StartFreshToday.com.

Common Bankruptcy Questions

An Attorney Is Handling My Chapter 7 Bankruptcy Case. What Can I Do to Help?

Be sure to follow your attorney’s advice and do not attempt to conceal any property, destroy any financial records, and violate any court order or make enormous, last-minute charges on your credit cards. Please note that you may only file for Chapter 7 bankruptcy once in eight years. Understanding the Chapter 7 bankruptcy process is critical to making good decisions for your financial future.

Is Any Property Items Exempt from Liquidation?

Exemptions do exist to protect certain property from liquidation in bankruptcy, though the specifics of these vary from state to state. These exemptions typically include your primary residence, tools, work equipment, vehicle, certain items of personal property and numerous other categories of property.

In most cases, exemptions will protect all of your property. If not, your court-appointed bankruptcy trustee can liquidate your non-exempt assets to pay your creditors. However, a trustee will only liquidate in most cases if he or she can obtain enough money from a sale to make a significant payment to your creditors.

How can I reaffirm Secured Debts to Keep My Car—or Other Assets—Safe

Unlike unsecured debts, which may be eliminated during Chapter 7 bankruptcy, secured debts are generally not separated from the assets that secure them. That means that if you want your car loan discharged, you’ll have to give back the car. However, if you want to keep your car or another asset that serves as security for a debt, you’ll have to negotiate a reaffirmation agreement with your creditors, which you may be able to accomplish during your Chapter 7 bankruptcy filing. Reaffirming debt means that you agree to continue making payments in exchange for the right to keep your car or other asset.

Chapter 7 Bankruptcy May Provide the Fresh Start You Need

Choosing to file for Chapter 7 bankruptcy is a crucial decision in your financial life, and must never be taken lightly. However, if you feel like you have nowhere else to turn, it may provide you the chance to receive protection against creditors and regain control of your financial life. After bankruptcy, you’ll be able to rebuild your credit with the help of budget planning techniques you practiced in your Debtor Education Course, and by finding trustworthy lenders who can help you achieve those goals.