

United States Bankruptcy Court Eastern District of Missouri

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Clerk of the Court

General Information

- What is Bankruptcy?
- Eligibility, Effects, Events
- Terms to Know
- Contact Information

FAILURE TO PROVIDE COMPLETE INFO CAN BE GROUNDS FOR A DENIAL OF DISCHARGE & CAN BE A FEDERAL CRIME. Most bankruptcy documents must be signed under penalty of perjury.

This booklet contains general information about the bankruptcy process. It is intended to answer common questions from pro se debtors and creditors but should not be relied upon as legal advice. While the information presented is accurate as of the date of publication, it should not be used as a substitute for reference to the Bankruptcy Code and Federal Rules of Bankruptcy Procedure.

This information should supplement, not substitute for advice of competent legal counsel. The Bankruptcy Court, Chapter 7 Trustee and United States Trustee cannot give legal advice. Use of competent legal counsel is advised.

This pamphlet is available on the Court's website at <https://www.moeb.uscourts.gov/filing-without-attorney> and provides hyperlinks to additional resources referenced herein. (8/2020)

WHAT IS BANKRUPTCY?

- A federal court proceeding designed to provide individuals and businesses with a way to address debt problems.
- Can be a proactive and/or retroactive measure to stop debt collection by creditors.
- Intended to provide debtors with a “fresh start” or debt relief while treating creditors fairly.
- 6 types of bankruptcy exist. This brochure covers the two most commonly used by consumers:
 - Chapter 7 for individuals & businesses
 - Chapter 13 for individuals

DIFFERENT TYPES OF BANKRUPTCY

| CHAPTER 7 | CHAPTER 13 |
|---|---|
| <ul style="list-style-type: none"> ▪ Commonly known as “straight bankruptcy” or “liquidation” ▪ Available to individuals & businesses ▪ Designed to provide a fresh start for those unable to pay their debts due to insufficient income ▪ Debtor is allowed to keep certain property ▪ An impartial trustee will sell (liquidate) non-exempt property ▪ Proceeds will be used to pay creditors ▪ In surrendering non-exempt assets, the debtor will receive a discharge from most debts ▪ Like giving back 50 cents for every \$1 | <ul style="list-style-type: none"> ▪ Often called a “wage-earner plan” ▪ Available to individuals with regular income—sufficiently stable & regular ▪ Debtor makes a fixed monthly payment to a trustee ▪ Trustee distributes money to debtor’s creditors ▪ Monthly payments allow debtor to repay some creditors less than the amount owed while keeping possession of all assets <ul style="list-style-type: none"> • Assets can include house and car ▪ Debtor will receive a discharge once payment plan ends (lasts 3-5 years) |

DO I NEED AN ATTORNEY?

An attorney is not necessary, but handling a bankruptcy case successfully without an attorney (AKA being “Pro Se”) is difficult and certain rights may not be fully protected.

- The law permits people to use a petition preparer to assist in preparation of documents, but they are prohibited from giving legal advice.
 - “Notice to Debtor by Non-Attorney” **must** be filed
- Attorneys & petition preparers must file statements to disclose the fee they charged for their services.

- Only **attorneys** (NOT petition preparers) may collect & remit the filing fee for commencing a case.

ELIBILITY & DUTIES OF DEBTORS

To be eligible for bankruptcy (any Chapter) a debtor must:

- Receive credit counseling from an approved credit counseling agency within 180 days before filing.
 - Very limited exceptions apply in emergency situations.
- To receive a discharge for the case, all CH 7 & CH 13 debtors must attend a financial education course after filing.
- An individual MAY NOT file a bankruptcy petition if debtor had a prior case dismissed within past 180 days for failure to pay filing fees, appear at 341 meeting, and comply with court orders.
- A debtor may file a subsequent case but MAY NOT be entitled to a discharge in the new case if the debtor received a discharge in a prior case within a certain period.

DEBTORS NOT ELIGIBLE FOR A DISCHARGE

| | |
|-------------------|---|
| CHAPTER 7 | If debtor received a discharge: <ul style="list-style-type: none"> ▪ in a previous Chapter 7 or 11 case commenced <u>within 8 years</u> of new filing ▪ in a previous Chapter 12 or 13 case commenced <u>within 6 years</u> of the new filing |
| CHAPTER 13 | If debtor received a discharge: <ul style="list-style-type: none"> ▪ in a previous Chapter 7, 11, or 12 case filed <u>within 4 years</u> of new filing ▪ in a previous Chapter 13 case filed <u>within 2 years</u> of the new filing |

DEBTOR’S OBLIGATIONS

All debtors must:

- File required bankruptcy schedules & statements;
- Attend a meeting of creditors;
- File notice of any change of address; and
- Provide current tax returns to trustee.

ATTIRE

Bankruptcy Court is Federal Court. Appropriate attire is required.

AUTOMATIC STAY AND ELIGIBILITY

- Filing bankruptcy imposes an “automatic stay”.
- Prohibits continued collection against debtor or debtor’s property.
- All collections/foreclosures/lawsuits/demands for payment are stopped **ONLY as long as Stay is in effect.**
- Can terminate for a number of reasons.

| NOT ELIGIBLE | ELIGIBLE |
|--|---|
| If debtor has 2 prior bankruptcy cases (pending & dismissed) within past year. | If debtor has 1 prior case (pending & dismissed), the Stay will expire 30 days after filing for bankruptcy. |

DISCHARGE

Discharge cancels a debtor’s personal liability or obligation to pay a debt.

| CHAPTER 7 | CHAPTER 13 |
|--|--|
| Most debtors receive discharge from most debts within 60-90 days after Meeting of Creditors. | Discharge granted upon completion of all plan payments |

- Most debts are discharged, unless a debtor commits fraud or dishonesty in connection with case or fails to meet other obligations.
- Certain debts cannot be discharged, such as student loans, taxes, child support, among others public policy dictates.
- Discharge cancels obligations to pay debt but does not mean debtor may continue to keep collateral (e.g., car, home) without paying.
- Secured creditors normally retain rights that permit them to seize their collateral after bankruptcy is over.

RECORDS AND CREDIT REPORTS

- A bankruptcy filing will typically remain on a credit report for 7-10 years.
- Credit reporting agencies regularly check bankruptcy filings.
- The court does not control what information is reported to credit reporting agencies & cannot assist in resolving problems with credit reports
- The debtor should keep a copy of ALL documents in the case (particularly the Schedules and Discharge Order) to assist in resolving future questions about the bankruptcy.

COMMENCEMENT AND NOTICE

Every case begins with the filing of a petition. In addition, all individual debtors must file:

- A list (matrix) of all creditors.
- Official schedules & statements of financial affairs.
- Credit counseling certificate.
- Means test or disposable income form.
- Social security verification form.
- Bankruptcy Court sends **Order and Notice of Commencement of Case** to all creditors in matrix. Contains date of Meeting of Creditors and other important deadlines, i.e., Filing Proofs of Claim, Objection to Discharge, Dischargeability & Objections.

MEETING OF CREDITORS

- A hearing conducted by the case trustee (not the bankruptcy judge) to review debtor’s financial affairs.
- All creditors are welcome to attend and may ask questions.
- Debtor is sworn to answer under oath.
- The location and time of the meeting are always printed in the Notice of Commencement of Case.

CASE PROCESS

- Creditors may object to debtor receiving a discharge or object to the dischargeability of a specific debt.
- Creditors must object by deadlines set forth in Notice of Commencement of Case
- **Individuals debtors WILL NOT receive a discharge unless they complete a post-filing financial management education course, and file a certificate of completion.**

CLAIMS AND CLOSING

- In all cases where assets are present, the trustee files a final report of amounts distributed to creditors.

| CHAPTER 7 | CHAPTER 13 |
|---|---|
| <ul style="list-style-type: none"> ▪ Claims are not to be filed in cases where there are no assets with which to pay creditors. ▪ Case will close shortly after discharge or after the trustee makes their distribution in asset cases. | <ul style="list-style-type: none"> ▪ Claims shall be filed by the deadlines set by the Court, with limited exceptions. ▪ Case will close after conclusion of payment plan |

DISMISSAL

Dismissal terminates the bankruptcy case; it DOES NOT discharge any debts.

The Court may dismiss a case for many reasons, typically for:

- Debtor’s failure to attend the Meeting of Creditors.
- Failure to file documents when required or pay filing fee.

TERMS TO KNOW

Asset: Property owned by the debtor. A “no asset case” is one in which there is not enough money or equity to make distribution to creditors.

Certificate of Service: A document required to be filed showing the date another document was mailed/delivered and the names & addresses of the parties to whom it was mailed

Creditor: A person to whom the debtor owes money

Debtor: Person who files bankruptcy & owes money to creditors

Exemptions: The amount of property the debtor is allowed to keep from payment to unsecured creditors. Debtor must elect to claim exemptions under applicable law. Exemptions are not automatic, and if not selected, otherwise-exempt property may be collected.

Liabilities or Debts: Financial obligations or amounts the debtor owes others.

Lien: A claim/right to property (collateral) held by a creditor to secure payment of a debt.

Trustee: An independent person appointed to administer bankruptcy case, collect assets & pay creditors

COURT LOCATION & CONTACT INFORMATION

Eastern Division (St. Louis) 111 South Tenth St. 4th Fl
St. Louis, MO 63102

Southeastern (Cape Girardeau) 555 Independence Street
Cape Girardeau, MO 63701

Northern (Hannibal) 801 Broadway, Room 312
Hannibal, MO 63401

Bankruptcy court staff is located only in St. Louis.

All documents must be filed in St. Louis.

Hours - (St. Louis) Monday - Friday 8:30 a.m. to 4:30 p.m.
Main Telephone (314) 244-4500
MCVCIS (voice case info) (866) 222-8029 #87
CM/ECF Help Desk (Toll Free). (866) 803-9517
PACER (internet case information) (800) 676-6856

The court does not provide basic bankruptcy forms. Forms may be available at an office supply store or on the Court’s web site, www.moeb.uscourts.gov.