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Confidential Chapter 7 BANKRUPTCY INFORMATION & FAQ Report

What Every Person Should Know
Before Filing Chapter 7 Bankruptcy

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Table of Contents

1: Chapter 7 Bankruptcy Asset Protection.....	3
Do I get to keep my property in Chapter 7?	3
Will someone come to my house and look at my property?.....	3
What will creditors want from me in bankruptcy?.....	3
2: Chapter 7 Bankruptcy and Cars	4
How many cars am I allowed to have?	4
What bankruptcy information do I need to know that can save my car?	4
When can I purchase a car?	4
3: Chapter 7 Bankruptcy and Home Mortgages	4
What bankruptcy information do I need to know that can save my house?	4
When can I purchase a home?.....	4
4: Chapter 7 Bankruptcy Discharge of Debt.....	5
What debt is discharged, what debt is not?	5
5: Chapter 7 Bankruptcy Lawyers	5
How do I minimize attorney costs while getting good service?	5
6: Chapter 7 Bankruptcy Pre-Planning.....	5
Should I max out my credit cards before filing for Chapter 7?	5
Should I spend as much money as possible prior to filing Chapter 7?	6
7: Chapter 7 Bankruptcy Process	6
What do I need to do prior to filing my case?	6
What happens once my bankruptcy is filed?.....	6
How long does bankruptcy take?	6
What is the hearing called that I go to?.....	6
What is the purpose of the bankruptcy hearing and what happens at the hearing?	7
What will the creditors do at the bankruptcy hearing?.....	7
How can I be prepared for my hearing?	7
Conclusion.....	7
About the Author	8
Disclaimer.....	8

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What Every Person Should Know Before Filing Chapter 7 Bankruptcy

Do not rely on creditors, rumors, friends, or Forums for your bankruptcy information. They are often wrong!

This is confidential information that many people don't learn until it is too late!

This report will help you avoid making some **big** mistakes, such as endangering your assets and jeopardizing your ability to have your Chapter 7 successfully discharged.

Before making the decision to pursue bankruptcy, eliminate crippling debt, and put yourself back on the road to financial health you should know the facts.

Here is the information and the answers to frequently asked questions you need to know before filing bankruptcy!

1: Chapter 7 Bankruptcy Asset Protection

Do I get to keep my property in Chapter 7?

Normally, you keep everything. Most cases are "No Asset" cases, meaning the trustee does not take any property from the client. For example, you can keep your home, cars, furniture, appliances, and retirement accounts if they fall under Colorado exemption law amounts. If an asset is not exempt your attorney can help you plan so you do not have to turnover and lose the asset to your creditors.

Will someone come to my house and look at my property?

We have never had a client visited at home. If you have nonexempt property, we can do legal pre-bankruptcy planning to protect it or negotiate a favorable buy back from the trustee. Most clients do not lose any property.

What will creditors want from me in bankruptcy?

In a Chapter 7 bankruptcy they will generally expect to receive nothing unless you have assets that will be turned over in the bankruptcy. A good bankruptcy attorney will help you pre-plan to minimize or eliminate turnover of assets.

2: Chapter 7 Bankruptcy and Cars

How many cars am I allowed to have?

You may have as many vehicles (cars, motorcycles, etc) as you want. However, there are two exceptions: 1) if they exceed your exemption amount then we will help you plan so you do not have to turnover and lose the asset to your creditors; and 2) if the vehicles have loans on them then you may be limited to having as many vehicles as you have drivers in your family.

What bankruptcy information do I need to know that can save my car?

Continue to make your regular payment. In Chapter 7 you may qualify for a program that allows you to refinance your car for its value if it is upside down. This program is called Redemption. Regardless of your ability to save your current car, you should have very little problem getting another car. Car dealers are very liberal and often provide loans immediately after your case is filed. You may have a high interest rate, but you will get the added benefit of rebuilding credit through your new loan.

When can I purchase a car?

Most dealers are happy to put you in a car as soon as you file your case. It is important to shop around for the best deals and rates even though you may feel apprehensive about your situation. There is a large part of the auto industry dedicated to providing auto loans to people in or just recently out of bankruptcy, for example, www.722Redemption.com.

3: Chapter 7 Bankruptcy and Home Mortgages

What bankruptcy information do I need to know that can save my house?

Continue to make your regular payment. If you fall behind on payments then you may request a mortgage modification from the lender in order keep your home.

One, often overlooked, benefit of Chapter 7 bankruptcy is that you are discharging debt, which reduces monthly expense. In addition, you may replace an expensive car or other item in order to create more money to pay your mortgage.

When can I purchase a home?

If your debt is high or you have some negative credit history, then you are currently either completely ineligible to buy a home or would pay a very high interest rate. There are home loans generally available 2-3 years after bankruptcy. We recommend that you save a down payment, maintain consistent employment, and pay all expenses on time. You will need to take on some small debt like a credit card or car loan in order to rebuild your positive credit history.

Meet with a mortgage broker at least 1 year prior to your anticipated purchase in order to get advice on any actions you should take to enhance your chances.

4: Chapter 7 Bankruptcy Discharge of Debt

What debt is discharged, what debt is not?

Most debts are dischargeable. Common dischargeable debts are credit card bills, medical debts, repossessions, judgments, collections, back rent, utilities, short sale deficiency, foreclosure deficiency, mortgages, car loans, and certain IRS, State, and other taxes.

Common non-dischargeable debts include student loans, child support, certain taxes, and criminal fines and penalties.

5: Chapter 7 Bankruptcy Lawyers

How do I minimize attorney costs while getting good service?

Understand what is *not* included. Ask the attorney at the initial meeting:

1. What is not included?
2. How much for non-included services if I need them?
3. Anything else we have not discussed I could be charged for?

Generally attorneys charge a flat fee that covers your case up to the 341 Meeting of Creditors and they call this “full representation.” This is not full representation. Your case will last for a minimum of 60 days after the 341 Meeting and will take another month or so before it closes.

Most attorneys will charge more for anything that happens between the 341 and closing of your case. This is why a case looks “cheap” up front. When you need help on your case before it closes you will be charged \$100s to \$1,000s for the work.

Tip: Find an attorney who gives you the fee for your entire case all the way to closing. You will then know the cost and risks up front.

6: Chapter 7 Bankruptcy Pre-Planning

Should I max out my credit cards before filing for Chapter 7?

There are multiple risks to taking this action. If you spend money on credit cards and you have no intention of paying the money back, for example you do not make any payments after you make the purchases, you are evidencing your intent to defraud the creditor. If you commit

fraud and are caught then this debt may be non-dischargeable. In addition, you also risk running into trouble with the timing of the filing of your case. Your attorney can help you develop a strategy to reduce risk in filing your case if you have already gone down this path and it may include making a few minimum payments on credit cards.

Should I spend as much money as possible prior to filing Chapter 7?

No! You should protect as much money as possible prior to filing Chapter 7 bankruptcy. You want to stand on solid financial ground afterwards and recover as quickly as possible. This is the exact reason why you want an experienced attorney to help you protect your assets. It is your hard earned money and you should keep as much value as legally possible to get you back on your feet quickly.

7: Chapter 7 Bankruptcy Process

What do I need to do prior to filing my case?

In order to be eligible to file for bankruptcy you must complete a pre-filing briefing with a credit counseling company. You do not need to worry about accomplishing this task before meeting with an attorney. When your case is filed, your attorney will file with the bankruptcy court the certificate you receive from the approved credit counseling agency. Your certificate may be received over the Internet or the phone, and the work you do with your attorney prior to the certification will help prepare you for an efficient completion of this part of the process.

What happens once my bankruptcy is filed?

You are assigned a case number, judge, and trustee. You are immediately protected from creditor harassment. Garnishment, foreclosure, and creditor court cases are stopped. The bankruptcy court mails notice of the filing to all of your creditors and sets the date for your bankruptcy hearing.

How long does bankruptcy take?

Part of this depends on the law firm you use. Our staff will prepare the necessary court documents from the information you provide to us through our questionnaire or through an interview. You will then simply sign the documents after which we will file the documents with the bankruptcy court. Once we file your case, your hearing will be 20 to 40 days later, you will be discharged 60 day after the hearing, and your case will close shortly thereafter.

What is the hearing called that I go to?

You may hear it referred to as the 341 Meeting of Creditors, Bankruptcy Hearing, or Creditors Meeting.

What is the purpose of the bankruptcy hearing and what happens at the hearing?

The purpose of the 341 Meeting of Creditors is to ask questions. There is *no* judgment as to whether you will receive a discharge of your debts. There is no judge. A trustee, who is a lawyer, swears you in and asks if the information your attorney filed for you is correct, if you listed all your assets and debts, and clarifies any confusing information.

A typical hearing lasts about 10 minutes. Creditors normally do not show up. Hearings are held throughout the state and your hearing location will be determined by your county of residence. If an individual creditor or the trustee has an issue with your case, then that will be handled through your attorney and generally will be limited to very specific issues and not whether you're going to "*receive a bankruptcy.*"

Some clients feel some level of anxiety or fear leading up to the meeting with the bankruptcy trustee, but there is no reason to fear the trustee. Your attorney will make sure the process goes smoothly and will meet with you before the meeting to discuss any details. After the meeting, most people comment on how simple the process was and that it was not as bad as they had feared.

What will the creditors do at the bankruptcy hearing?

A creditor coming to a 341 Meeting is very rare. However, if one does show-up they are limited to asking relevant questions. As previously stated there is nothing decided at the meeting. The goal of any questions would be to determine if there is any reason for the creditor to believe their debt should survive the bankruptcy and then later pursue their case in the bankruptcy court. The most common reason a debt is not discharged is fraud.

How can I be prepared for my hearing?

You must bring state-issued photo identification and your social security card to your meeting. A W-2 with your social security number may also be acceptable. There are other documents that need to be provided to the trustee before your meeting can take place, and your attorney will discuss these issues with you.

Conclusion

There's a lot to think about when you're moving toward bankruptcy. However, you don't have to remember all of this information. That's your attorney's job!

Stay in touch with your attorney and keep communicating about financial decisions, changes in circumstances and anything else likely to impact your bankruptcy. With the help of a specially-trained attorney skilled in bankruptcy matters, your bankruptcy can be the start of a new life.

About the Author

Brian Methner is the Owner of Methner & Associates. He is the author of 8 White Papers on legal and financial issues, Co-Author of Helping Clients Through Difficult Times a Continuing Professional Education book published by Thomson Reuters, Named 2010 Colorado Super Lawyers Rising Star in Bankruptcy, interviewed on 9 News, and quoted in the New York Times article "Going Bankrupt is Harder to Do."

Methner & Associates can be contacted at (877) 319-7405 or you can learn more online at www.MethnerLaw.com. Methner & Associates offer a free initial consultation with an attorney who will review your situation, provide legal options, answer your questions, and quote you a fee in writing for services.

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