

Bankruptcy



Bankruptcy:

What You Need to Know
in Maryland

Advancing Human Rights and Justice for All in Maryland since 1911



MARYLAND
LEGAL AID

Maryland Legal Aid: Who We Are

This brochure was prepared by Maryland Legal Aid, a non-profit organization dedicated to providing high-quality legal advocacy to protect and advance human rights for individuals, families, and communities.

Know your rights!

This brochure contains general information about your bankruptcy rights in Maryland, but is not meant to be legal advice. While every effort is made to keep this information current, the law sometimes changes. If you want information about your specific situation, or you have a pending legal case, you should contact Maryland Legal Aid or another legal resource.

What is bankruptcy?

Bankruptcy is a legal proceeding in which a person who can't pay his or her bills can get a fresh financial start. Bankruptcy law is federal law, and all bankruptcy cases are handled in federal court. Filing bankruptcy can immediately stop debt collection actions against you, at least until your debts are sorted out. However, filing bankruptcy may not stop an eviction by your landlord if the landlord has a judgment against you. If you are facing an eviction, you should talk to an attorney.



What can bankruptcy do for me?

Bankruptcy may allow you to:

- Eliminate the legal obligation to pay most or all of your debts. This is called a “discharge” of debts;
- Stop foreclosure on your house and give you a chance to catch up on missed payments;
- Prevent repossession of a car, mobile home or other property, or force the creditor to return property even after it has been repossessed;
- Stop wage garnishments and in some circumstances, require the return of garnished wages taken in the 90 days before you filed bankruptcy;
- Stop debt collection calls and similar creditor actions to collect a debt;
- Restore or prevent termination of utility service. The utility company may require you to pay a security deposit to continue service;
- Challenge the claims of creditors who have committed fraud or who are trying to collect more than you really owe;
- Remove or reduce the amount of certain liens on your property, other than the first mortgage on your home;

- Prevent eviction for failure to pay rent under certain circumstances;
- A bankruptcy may allow you to eliminate public benefit over payments that are not the result of fraud;
- Get your driver’s license back if you lost your license solely because you could not pay court-ordered damages caused in an accident.

Will bankruptcy eliminate all of my debts?

Bankruptcy erases (or discharges) most debts, with limitations. Bankruptcy will not normally dispose of:

- Child support, alimony, and certain other debts related to divorce;
- Most fines and penalties owed to government agencies;
- Most taxes;
- Most student loans;
- Debts not listed on your bankruptcy petition;
- Loans you received by knowingly giving false information to a creditor;
- Debts resulting from “willful and malicious” harm or driving while intoxicated.

How does bankruptcy affect co-signers?

Bankruptcy does not protect co-signers on your debts. When a relative or friend has co-signed a loan and you erase the loan in bankruptcy, the co-signer may still have to repay all or part of the loan.

Are there any reasons why I should not file bankruptcy?

There are many reasons NOT to file bankruptcy:

- If your income is protected from creditors (such as Social Security, SSI, other public benefits, and most pensions), then creditors cannot collect from you. Even if you don't file bankruptcy, your creditors can't legally take anything from you.
- Any cash or property you have that is worth more than \$6,000 is exempt from judgment or levy.

- If you are likely to fall deeper into debt, you may not want to file bankruptcy now. For example, if you have on-going medical problems and no medical insurance, you may want to wait to file bankruptcy. If you file bankruptcy, it will not wipe out your responsibility for any future debt.
- If you have primarily non-dischargeable debt, such as child support or taxes, you will gain very little benefit from filing bankruptcy.
- If you have only a small amount of debt, you may want to work out a payment plan with your creditors. You can contact the Consumer Credit Counseling Service at 800-642-2227 for assistance.

You can eliminate your debts in a Chapter 7 bankruptcy only once every eight years, so it is important to consider carefully whether and when to file.

Are there different types of bankruptcy cases?

Yes. Most people filing bankruptcy will want to file either a Chapter 7 or Chapter 13 case. Either type of case may be filed individually, or by a married couple filing jointly.

Chapter 7 (Straight Bankruptcy)

Chapter 7 is known as “straight” bankruptcy or “liquidation.” The basic idea in a Chapter 7 bankruptcy is to discharge your debts in exchange for giving up property. Most low-income people do not need to give up any of their property because the law allows you to “exempt” or protect approximately \$12,000 worth of property (\$24,000 if you are filing jointly with your spouse). If you have property that is not exempt, it can be sold and the money distributed to your creditors. You may also be entitled to an additional exemption (called a “homestead exemption”) if you own your home and you have equity in it. In 2018, the amount of this exemption

was \$25,150. This amount can change every three years.

If you cannot protect all of your property using the \$12,000 (\$24,000 if you are filing jointly with your spouse) worth of exemptions and the homestead exemption, a bankruptcy attorney will be able to help you determine if other Maryland exemption laws can protect the rest of your property.

Not everyone is eligible to file a Chapter 7 bankruptcy. If your income is above the Maryland median income, you may not be eligible to file a Chapter 7 bankruptcy and may need to file a Chapter 13 bankruptcy instead. The Maryland median income is \$65,723 for a single person household and up to \$118,294 for a family of four, as of 2018. The new means test number effective May 1, 2022 will be \$71,839.00

Chapter 13 (Reorganization)

In a Chapter 13 case you file a “plan” showing how you will pay off some of

your past due and current debts over the next three to five years. The most important thing about a Chapter 13 case is that it may allow you to keep valuable property, like your home and car, if you have enough income to make the payments required by your Chapter 13 plan. In most cases, these payments include your regular monthly payments on your mortgage and/or car loan, with some extra payment to get caught up on the amount you owe. In order to file a Chapter 13, you need to have enough income to pay for your basic living expenses, make payments on your mortgage and/or car loan (if you plan to keep your house or car), and make an additional monthly payment toward your other debts.

You should consider filing a Chapter 13 bankruptcy if you:

1. Are behind on loan payments for your home or car, but can catch up if given some time;
2. Have valuable property that is not exempt, but you can afford to pay creditors from your income over time.

What happens to my home and car if I file bankruptcy?

In a Chapter 7 bankruptcy, you can keep your home and/or car as long as your equity in the property is fully exempt AND you are current on any payments for any mortgages or loans secured by the property. You may have to sign paperwork agreeing to continue to pay the loan in order to keep your property.

In a Chapter 13 bankruptcy, you can keep your home and/or car if you are able to keep current on the payments that become due after you file bankruptcy AND you can stay current on your payments under your Chapter 13 plan.

If you own a home and/or a car, you should talk to an attorney before you file bankruptcy to find out whether you will be able to keep your property.

What other property can I keep?

In a **Chapter 7** case, you can keep all property that the law says is “exempt” from the claims of creditors. Maryland law sets your exemptions.

These exemptions include:

- \$6,000 in cash or property of any kind;
- \$5,000 in wearing apparel, tools required for work;
- All of any claims to money or other benefits for an illness, injury or accident;
- All prescribed health aids;
- \$1,000 in household furnishings and goods;
- \$5,000 in other personal property;
- Qualified retirement and pension plans;
- Certain benefits such as Social Security, veterans’ benefits, worker’s compensation, unemployment compensation, public assistance, and pensions—regardless of the amount;

- Homestead exemption—equity in your home up to \$25,150, unless you have filed bankruptcy in the last eight years and claimed the Homestead exemption or another co-owner claimed the exemption in bankruptcy in the last eight years.

The amounts of these exemptions are doubled when a married couple files together, except for the Homestead exemption.

How do I determine the value of my property?

The value of your property is what it is worth now, NOT the amount you paid for it. For furniture, clothes and cars, the current value is usually a lot less than what you paid for the item or what it would cost to buy a replacement.

You also need to consider how much you owe on the property. For example, if your car is worth \$10,000 and you owe, \$9,000 on it, then the amount you need to exempt is only \$1,000.

What do I have to do to file for bankruptcy?

Will bankruptcy affect my credit?

Yes, but how it will affect your credit depends on many factors. If you file bankruptcy, it will appear on your credit record for ten years. However, if you are currently behind on many bills, your credit may already be bad, and bankruptcy probably will not make things any worse. In fact, since bankruptcy erases your old debts, you are likely to be in a better position to pay your current bills and establish better credit.

First, you must receive credit counseling from an approved non-profit credit counseling agency within 180 days before you file for bankruptcy. You will need to have a certificate that you have completed this counseling before you can file for bankruptcy.

Generally, in order to file a Chapter 7 bankruptcy, you will need to have filed your federal tax return for the past year or file it soon after filing bankruptcy. In order to file Chapter 13 bankruptcy, you will need to have filed the last two years federal tax returns for the most recent tax years before you file bankruptcy. If you have not filed taxes in the past three years and were supposed to have filed, you will have to have those taxes prepared and filed soon after filing.

You must also complete the bankruptcy petition with all of the supporting forms. The petition requires a detailed disclosure of your property, debts, income, expenses, and other information related to your financial situation.

In order to complete the petition, you will need to gather all of your financial and legal documents, including bills, credit reports, tax returns, pay stubs, and loan agreements.

As of June, 2018, it costs \$338 to file for bankruptcy under Chapter 7 and \$313 to file for bankruptcy under Chapter 13, whether for one person or a married couple. The court may allow you to pay this filing fee in installments if you cannot pay all at once. In a Chapter 7 bankruptcy, you can also request a waiver of the filing fee if you fall below certain income limits. The waiver is not available in a Chapter 13 bankruptcy. If you hire a private attorney to represent you, you will also have to pay the attorney's fees as determined by you and your attorney.

Can I file bankruptcy without an attorney?

Although it may be possible for some people to file a bankruptcy case without an attorney, it is not a matter to be taken lightly. The process is difficult and you may lose property or other rights if you do not know the law. It takes patience and careful preparation. While Chapter 7 cases are less complicated, few people have been able to successfully file Chapter 13 cases without an attorney.

Will Maryland Legal Aid help me file bankruptcy?

Maryland Legal Aid offers classes to teach people who have minimal property how to file a Chapter 7 bankruptcy. Maryland Legal Aid also represents people in some Chapter 7 and Chapter 13 bankruptcy cases, but does not have enough resources to provide representation to every person who needs an attorney. For additional free resources for legal assistance, see page 17 of this booklet.

Is bankruptcy right for me?

You should only file for bankruptcy after determining that bankruptcy is the best way to deal with your financial problems. This booklet does not explain every aspect of the bankruptcy process. If at all possible, you should speak with an attorney familiar with bankruptcy prior to filing a bankruptcy case.

Where can I get help?

Maryland Legal Aid

Contact your local Maryland Legal Aid office. See the back of this booklet for a list of all of Maryland Legal Aid's offices.

Maryland Legal Aid offers some classes on filing for bankruptcy on your own, and also may provide free representation in some cases.

www.mdlab.org

Maryland Volunteer Lawyers Service

(800) 510-0050

Maryland Volunteer Lawyers Service conducts classes on filing for Chapter 7 bankruptcy on your own and may take cases.

Montgomery County Bar Foundation Pro Bono Program

(301) 424-7651

www.barmont.org

Debtor Assistance Project

(410) 962-3813

The Debtor Assistance Project (DAP) is a legal clinic that is a partnership between the United States Bankruptcy Court for the District of Maryland and various members of the Maryland Legal community. DAP provides a free half-hour consultation with a bankruptcy attorney at the bankruptcy courts in Baltimore, Greenbelt, and Easton, Maryland. You must call to schedule an appointment.

Maryland Legal Aid Offices

Allegany/Garrett

138 Baltimore Street
Suite 204
Cumberland, MD 21502
(301) 777-7474
(866) 389-5243

Anne Arundel/Howard

229 Hanover Street
Annapolis, MD 21401
(410) 972-2700
(800) 666-8330

3451 Court House Drive
2nd Floor
Ellicott City, MD 21043
(410) 480-1057

Baltimore City

500 E. Lexington Street
Baltimore, MD 21202

Telephone Intake:

(410) 951-7750
866-635-2948

Business Line:

(410) 951-7777
(800) 999-8904

Baltimore County

215 Washington Avenue
Suite 305
Towson, MD 21204
(410) 427-1800
(877) 878-5920

Cecil/Harford

103 S. Hickory Avenue
Bel Air, MD 21014
(410) 836-8202
(800) 444-9529

Lower Eastern Shore

Dorchester, Somerset,
Wicomico, Worcester
201 E. Main Street
Salisbury, MD 21801
(410) 546-5511
(800) 444-4099

Midwestern Maryland

Carroll, Frederick, Washington
22 S. Market Street
Suite 11
Frederick, MD 21701
(301) 694-7414
(800) 679-8813

Montgomery County

600 Jefferson Plaza
Suite 430
Rockville, MD 20852
(240) 314-0373
(855) 880-9487

Prince George's County

8401 Corporate Drive
Suite 200
Landover, MD 20785
(301) 560-2100
(888) 215-5316
(301) 560-2100

Southern Maryland

Calvert, Charles, St. Mary's
15045 Burnt Store Road
3rd Floor
Hughesville, MD 20637
(301) 932-6661
(877) 310-1810

Upper Eastern Shore

Caroline, Kent,
Queen Anne's, Talbot
106 N. Washington Street
Suite 101
Easton, MD 21601
(410) 763-9676
(800) 477-2543

STATEWIDE PROGRAMS & RESOURCES

Community Lawyering Initiative

(443) 451-2805

Farmworker Program

(800) 444-4099

Foreclosure

Legal Assistance Project

(888) 213-3320

Long-Term Care

Assistance Project

(866) 635-2948

Maryland Senior Legal Helpline

(866) 635-2948

Veterans' Hotline

(443) 863-4040

TTY Users: Call Maryland
Relay, Dial 7-1-1

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Visit www.peoples-law.org for self-help legal information and community resources.

For more information visit www.mdlab.org.