

## What is bankruptcy?

Bankruptcy is a court process that can help consumers eliminate overwhelming debts or establish plans to repay them. Bankruptcy laws offer consumers a way to erase many financial obligations and start fresh.

It is important to remember that bankruptcy is not the best solution for everyone in debt. If you are thinking about filing for bankruptcy, be sure to make an informed choice.

To start a bankruptcy, you must file a petition with the Bankruptcy Court. There are different kinds of bankruptcy you can file.

## What is Chapter 7 bankruptcy?

Chapter 7 bankruptcy is the most common type of bankruptcy and is usually the simplest. It is also known as “straight bankruptcy.” In a Chapter 7 bankruptcy, you can keep certain exempt property. Non-exempt property is turned over for sale to pay creditors. Most debts, but not all, are discharged in a Chapter 7 bankruptcy, meaning that you are no longer legally obligated to pay them. Eight years must pass from the date of a straight bankruptcy filing before another straight bankruptcy can be filed.

## What property is exempt under a Chapter 7 bankruptcy?

In Montana, there is an exemption for \$364,000 in equity in a homestead and \$4,000 for equity in one motor vehicle. The protected equity amount increases by 4% each year after 2022. In addition, exempt property can include household furnishings, personal property, professional tools, and life insurance. All of these exemptions have value limits. If you own property worth more than the specified value, the bankruptcy court trustee may force you to sell that property to pay your creditors as a part of your bankruptcy case. Many people only have exempt property and therefore do not have to sell any property to pay creditors during their Chapter 7 bankruptcy.

## What is Chapter 13 bankruptcy?

Chapter 13 bankruptcy is like a repayment plan. It may be an option for you if you have a regular income but are unable to pay all of your debts. Under Chapter 13 bankruptcy, the Bankruptcy Court approves a plan for you to pay your debts in installments over an agreed upon time period. Under Chapter 13, you can generally keep all of your property for as long as you continue to pay the installments.

## Are there other types of bankruptcy an individual can file?

Yes. In addition to Chapter 7 and Chapter 13 bankruptcies, individuals may file for business reorganization under Chapter 11 of the Bankruptcy Code or for family farm bankruptcy under Chapter 12. You should talk with an attorney to decide whether these types of bankruptcies are available and appropriate for you.

## Things to consider before filing for bankruptcy:

- If you only have a few debts, it may be best to contact your creditors and work out a payment plan with them, rather than filing for bankruptcy.
- Bankruptcy can negatively affect your credit history for ten years, so you might have trouble getting new credit, a mortgage, a job, insurance, or a rental dwelling.
- Not all debts can be discharged by bankruptcy. You will still have to pay child support and alimony, student loans, income taxes from recent years, certain fines and penalties like traffic tickets, and certain other debts.
- Bankruptcy generally cannot discharge any secured debts you may have. Secured debts are debts backed by collateral. For example, a vehicle financing loan is a secured debt where your car serves as the collateral.

- If creditors are harassing you, federal and state fair debt collection laws can help you protect yourself from abuse and harassment by debt collectors.
- Any unsecured creditor, such as credit card companies and hospitals, must file a lawsuit against you in court to collect the debt if you do not voluntarily pay it. If they file suit against you, you will be served with copies of the court papers and can appear in court to tell the judge your side of the story. The court will decide how much, if any, money you owe. These creditors cannot have you jailed for failure to pay a debt.

### **How will bankruptcy affect my credit?**

Bankruptcy may appear on your credit record for ten years, making it harder for you to get credit during that time. However, if you are considering bankruptcy then your credit might already be poor. If that is the case, filing bankruptcy can make it easier for you to obtain credit by discharging many of your former debts.

### **Are there local options for financial counseling?**

HUD-approved counselors can give advice on credit issues and other money questions. Call 1 (800) 569-4287 to find an approved counselor near you.

### **How do I get more help?**

Montana Legal Services Association (MLSA) provides free civil legal help to low-income people. Contact us to see if you qualify:

- Apply anytime online at [mtlsa.org](http://mtlsa.org);
- Call our Helpline at 1-800-666-6899 (Helpline hours are limited).

### **What help can I find at MLSA?**

- Legal advice and representation;
- Referrals to volunteer attorneys and other providers;
- Self-help clinics and materials.

### **[www.MontanaLawHelp.org](http://www.MontanaLawHelp.org)**

Need legal information or forms? Visit [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org).

Can't find what you want? Use LiveHelp. Click on the LiveHelp picture and get help finding the information you need.

### **[www.MTLSA.org](http://www.MTLSA.org)**

Find copies of all our brochures online. They are all available for free download!

This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.

## **Montana Legal Services Association**

### **Money Problems:**

### **Bankruptcy**



*Providing, protecting, and enhancing access to justice.*

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