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## BANKRUPTCY

Bankruptcy is a legal action in which a person who cannot pay his bills can get a fresh financial start. The right to file for bankruptcy is provided for by federal law, and all bankruptcy cases are handled in federal court. A person who files for bankruptcy is called a Debtor. By filing for bankruptcy, you may:

- a. Get most or all of your bills wiped out (*discharged*);
- b. Get to keep most or all of your property which otherwise might have been lost to creditors;
- c. Get extra time to pay bills, if you have regular income;
- d. Stop wage garnishment, debt collection harassment, and similar creditor actions to collect a debt;
- e. Restore or prevent termination of utility service.

There are two primary kinds of bankruptcies for individuals: “straight” bankruptcy (Chapter 7) and “reorganization” bankruptcy (Chapter 13).

**CHAPTER 7 - STRAIGHT BANKRUPTCY.** In a Chapter 7 case, a debtor files a petition asking the court to discharge his debts. The basic idea in a Chapter 7 bankruptcy is to wipe out (discharge) your debts in exchange for you giving up your property, other than EXEMPT property which the law allows you to keep. In many cases, much or all of your property may be exempt. Property which is not exempt is sold, and the money distributed to creditors. Exempt property may include cars, work-related tools, and basic household furnishings. Some property may be sold by a court-appointed official—a trustee—or turned over to creditors. You can receive a discharge of your debts under Chapter 7 only once every six years.

**CHAPTER 13 - REORGANIZATION BANKRUPTCY.** In a Chapter 13 case, the debtor files a reorganization plan showing how he will pay off past-due and current debts over an extended period, normally three to five years. The most important thing about a Chapter 13 case is that it allows a person to keep valuable property—especially one’s home—which might otherwise be lost. Consider filing a Chapter 13 plan if you:

- a. Own your home and are in danger of losing it because of indebtedness;
- b. Are behind on debt payments, but can catch up if given some time;
- c. Have regular income (including Government benefits such as social security or public assistance);
- d. Have filed a Chapter 7 within the last six years.

**WHAT PROPERTY CAN YOU KEEP?** You can keep all property which the law says is EXEMPT from the claims of creditors. Federal exemptions include: \$16,500 in equity in your home; \$2,575 in equity in your car; \$425 per item in any household goods up to a total of \$8,625; \$1,625 in job-related tools, books, etc.; \$850 in any property, plus part of the unused exemption in your home, up to \$8,075.; your right to receive social security, unemployment, VA benefits, welfare, and pensions. These exemption amounts are doubled when a married couple files together.

In Kentucky, the following exemptions, among others, apply: \$3,000 in household goods; \$5,000 in equity in your home (equity is the value of the property minus the amount you owe on mortgages); \$2,500 in equity in your car; \$1,000 general exemption for any property; Any amount in retirement accounts such as pensions and IRAs; your right to receive certain benefits such as social security, unemployment compensation, veterans' benefits, AFDC, workers compensation, and most other public assistance.

**SECURED CREDITORS.** If a creditor has a mortgage on your home, a lien on your car, or you put your property up as collateral for a debt, the creditor will have a security interest in your home, car, or personal property. If payments aren’t made on the debt, the creditor may be able to take and sell the home, the car, or the

property. There are several ways you can keep collateral or mortgaged property after filing for bankruptcy. One way is to agree to keep making payments on the debt until it is paid in full. This is called "reaffirming a debt." Some creditors may not have any security interest in the property. Such creditors are called unsecured or general creditors. Secured creditors generally have greater rights to your property than unsecured creditors. A creditor may have a security interest or other claim against property which you can claim as exempt. You may be able to keep this property in some situations.

**DOES CHAPTER 7 BANKRUPTCY WIPE OUT ALL DEBTS?** Yes, except for:

- a. Money owed for child support or alimony, fines, some taxes, and limited other kinds of debts;
- b. Debts not listed on your bankruptcy petition;
- c. Loans you got by giving false information to a creditor, who reasonably relied on it in making the loan;
- d. Debts resulting from "willful and malicious" harm;
- e. Student loans owed to a school or Government body, except if:
  - (1) the loan first became due more than seven years before the bankruptcy was filed; or
  - (2) payment would be an undue hardship.
- f. some debts incurred within 180 days prior to filing bankruptcy;
- g. some taxes, especially those accrued over the past three years;

**GOING TO COURT.** In most bankruptcy cases, you only have to go to a proceeding called the "meeting of creditors" to meet with the bankruptcy trustee and any creditor who chooses to come. Most of the time, this meeting will be a very short and simple procedure where you are asked about the bankruptcy forms and your financial situation.

**DISCHARGE.** In the typical bankruptcy case, the final thing the court does is grant a discharge, which excuses you from paying all debts (except possibly for the few already mentioned). The discharge order also forbids creditors from doing anything to try to collect a debt that has been discharged.

**BANKRUPTCY EFFECTS ON CREDIT.** There is no clear answer to this question. If you are behind on your bills, your credit may already be bad. Bankruptcy will probably not make things any worse. The fact that you have filed a bankruptcy can appear on your credit record for ten years; however, because bankruptcy wipes out your old debts, you are likely to be in a better position to pay your current bills and establish new credit.

#### **OTHER INFORMATION.**

a. Utility service. Public utility, such as an electric company, cannot refuse to provide or cut off service because you have filed for bankruptcy, but the utility can require a deposit for future service.

b. Discrimination. A Government agency cannot discriminate against you because you have filed for bankruptcy.

c. Driver's license. If you lost your license solely because you couldn't pay court-ordered damages caused in an accident, bankruptcy will allow you to get your license back.

d. Co-signers. A person who cosigned a loan with you may remain liable for your debt if you file bankruptcy.

**For more information and assistance,** contact Fort Campbell Client Services Office, Building 2765 Tennessee Ave, across from the Military Courthouse, (270) 798-4432. Legal Assistance attorneys can only provide limited advice and assistance with bankruptcy. Generally, they may explain bankruptcy, help you decide whether bankruptcy is right for you, and refer you to a civilian bankruptcy attorney.