



www.dcolemanlaw.com

770-609-1247

What is bankruptcy?

Chapter 7 Bankruptcy and Chapter 13 are legal proceedings that are available to a person to cope with a financial crisis. One of the main purposes of bankruptcy legislation is to afford the opportunity to a person, who is hopelessly burdened with debt, to free himself or herself of the debt and start fresh - "a new lease on life."

What is a discharge in bankruptcy?

Under the federal bankruptcy statute, a discharge is a release of the debtor from personal liability for certain specified types of debts. In other words, the debtor is no longer required by law to pay any debts that are discharged. The discharge operates as a permanent order directed to the creditors of the debtor that they refrain from taking any form of collection action on discharged debts, including legal action and communications with the debtor, such as telephone calls, letters, and personal contacts.

Although a debtor is relieved of personal liability for all debts that are discharged, a valid lien (i.e., a charge upon specific property to secure payment of a debt) that has not been avoided (i.e., made unenforceable) in the bankruptcy case will remain after the bankruptcy case. Therefore, a secured creditor may enforce the lien to recover the property secured by the lien.

What is the automatic stay?

The filing of a petition under chapter 7 or chapter 13 "automatically stays" most actions against the debtor or the debtor's property. 11 U.S.C. § 362. This stay arises by operation of law and requires no judicial action. As long as the stay is in effect, creditors generally cannot initiate or continue any lawsuits, wage garnishments, or even telephone calls demanding payments. Creditors normally receive notice of the filing of the petition from the clerk.

What are the most common reasons for a Chapter 7 or Chapter 13 bankruptcy?

The most common reasons for filing bankruptcy are:

- Unemployment / Reduced Income,
- Child support and alimony,
- Seriously overextended credit,
- Marital problems,
- Problems with a new or existing business owned by the debtor, and
- Other large unexpected expenses (i.e. medical bills).

Experienced attorneys specializing in complex Consumer and Business Bankruptcy!

Our Largest Recent Cases:

- \$4.0 Million Debt Discharged - Car Dealership*
- \$2.3 Million Debt Discharged - Catering Service*
- \$1.3 Million Debt Discharged - Real Estate Brokerage*
- \$900 Thousand Debt Discharged - Local Restaurant*



Will my creditors stop harassing me?

Yes, they will! By law - all actions against a debtor must cease once the documents are filed. Creditors cannot initiate or continue any lawsuits, wage garnishees, or even make telephone calls demanding payments. However, secured creditors such as banks holding, for example, a lien on a car, may try to get the stay lifted if you cannot make payments.

Will I ever get credit again?

One year after a bankruptcy discharge, debtors are eligible for automobile loans on terms as good as those of others, with the same financial profile, who have not filed bankruptcy. The size of your down payment and the stability of your income will be much more important than the fact you filed bankruptcy in the past.

Two years after a bankruptcy discharge, debtors are eligible for mortgage loans on terms as good as those of others, with the same financial profile, who have not filed bankruptcy. The size of your down payment and the stability of your income will be much more important than the fact you filed bankruptcy in the past.

The fact you filed bankruptcy becomes less significant the further in the past the bankruptcy is. The truth is, most banks will probably consider you a better credit risk after bankruptcy than before.

Will filing bankruptcy protect my property?

The automatic stay stops and prevents foreclosure, repossession, garnishments, collection calls, etc. Upon notice of the chapter 7 or chapter 13 case, creditors must cease attempting to collect from the debtor or the debtor's property until further order from the bankruptcy court.

What is a Chapter 7 trustee?

Upon the filing of the Chapter 7 petition, an impartial case trustee is appointed by the United States trustee to administer the case and liquidate the debtor's nonexempt assets. The Chapter 7 trustee will preside over the meeting of creditors and determine whether there are any nonexempt assets available to liquidate for the benefit of creditors.



**For more Bankruptcy
Frequently Asked Questions
(FAQ's), please check our
website at
www.dcolemanlaw.com**

Did you know?

One of the main aims of the United States bankruptcy law is to give a fresh start to honest debtors. To quote the United States Supreme Court, "It gives to the honest but unfortunate debtor ... a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt."

**Call for your free
in-office
consultation!
770-609-1247**