

Glossary

All terms in italics are defined in this glossary.

Annual Percentage Rate. The interest rate on a loan expressed under rules required by federal law. It is more accurate to look at the annual percentage rate (as opposed to the stated interest rate) to determine the true cost of a loan, because it tells you the full cost of the loan including many of the lender's fees. You will find the annual percentage rate for a loan on the disclosure statement that is given to you when the loan papers are signed.

Attachment. A legal process that allows a creditor to "attach" a *lien* to property that you own. Depending on state law, almost any kind of property may be subject to attachment, including your home, automobile, bank accounts, and wages. Once a *lien* is attached to the property, you may face further collection action on that property, including execution, *garnishment* or *foreclosure*.

Automatic Stay. A bankruptcy case automatically prevents continuation of creditor collection activity. Filing bankruptcy is the only way to get this protection.

Bankruptcy. A legal process available in all states that allows you to address your debt problems according to a set of special rules while getting protection from continued collection activity.

Collateral. Property put up to secure a loan. If you have given a creditor collateral, that creditor can normally take and sell the collateral if you are not able to repay the loan. A creditor with collateral is normally known as a "*secured creditor*."

Cosigner. A person who agrees to be responsible for someone else's debt. A cosigner is normally responsible for paying back a debt just as if he or she had received the money.

Credit Bureau, also called consumer reporting agency or credit reporting agency. This is a company that receives information about a consumer's credit history and keeps records that are available to those seeking data about that consumer.

Credit Report, also called a consumer report or a credit record, is the information about a consumer that a credit bureau has on file that it can report to others.

Credit Score. A credit score is a number that summarizes your credit history. The purpose of the score is to help lenders evaluate whether you are a risky borrower.

Creditor. Any person or business to which you owe money.

Debt Collector. The most common use of this term applies to anyone who collects debts. However, under the federal Fair Debt Collection Practices Act ("FDCPA"), the term "debt collector" only applies to collection agencies and lawyers (or their employees) that are collecting debts for others. State laws may cover other types of collectors.

Debtor. Any person who owes money to another. In *bankruptcy*, the term "debtor" refers to the person who begins a bankruptcy case.

Default. Failing to meet the requirements of an agreement. Most defaults involve failure to make required payments.

Defense. A legal reason why a court should not award any or all of what is requested in a lawsuit. For example, a statement that the money is not owed is a defense to a collection lawsuit.

Discharge. A document that ends a debtor's legally enforceable obligation to pay a debt. It is common to get a discharge of a mortgage debt after the mortgage is fully paid off. In addition, most bankruptcies result in a discharge at the end of the case that applies to many debts.

Equity. Your equity in property is the amount of cash you would keep if you sold property and paid off all of the liens on that property. For example, if you own a house worth \$100,000, but you owe \$60,000 on your original mortgage and \$10,000 on a second mortgage, you have \$30,000 in equity. The same principle applies to cars and other types of property.

Exempt Property. Property that the law allows you to keep when you are being faced with collection on an *unsecured debt*.

Exemptions. These are laws that give you the right to maintain your *exempt property*.

Federal Law. A law of the United States that applies throughout the country. The *bankruptcy* law is an example of a federal law.

Foreclosure. A legal process to terminate your ownership of real estate that is *collateral* for a debt, based on a *mortgage* or deed of trust. In some states, foreclosure involves a court proceeding (“judicial foreclosure”), while in others foreclosure occurs by creditor action alone (“non-judicial foreclosure”).

Garnishment. A creditor’s seizure, to satisfy a debt, of property belonging to the *debtor* that is in the possession of a third party. Usually a court has to authorize the seizure in advance. An example would be seizure of money in your bank account to repay a court judgment. Wages owed to you can also be garnished in many states.

Homestead Exemption. The right, available in most states and in the *bankruptcy* process, to treat your residence as *exempt property* that cannot be sold to satisfy the claims of *unsecured creditors*. In most states, the homestead exemption covers a certain dollar amount of your equity in your residence.

Judgment. A determination by a court as to the outcome of a lawsuit, including any amounts owed.

Judgment-Proof. This term is applied to people or businesses with property of minimal value, which can be entirely protected by *exemptions*. If you are judgment-proof, it is difficult or sometimes impossible for any creditor to force you to pay a debt.

Lien. Also called a “security interest,” it is a legal interest taken by creditors in your property to secure repayment of a debt. A lien can be created voluntarily in connection with a loan, such as when you pledge real estate by giving a creditor a *mortgage* or deed of trust. A lien can also be created without your consent by *attachment* based on a court order. A creditor with a lien is called a *secured creditor*.

Mortgage. An agreement in which a property owner grants a *creditor* the right to satisfy a debt by selling the property in the event of a *default*.

Negative Amortization. Negative amortization occurs when your payments do not cover the amount of interest due for that payment period.

Note. This term is commonly used as a name for a contract involving the loan of money.

Notice of Right to Cancel. This document explains your right to cancel a loan in some circumstances. You should receive such a notice in connection with most door-to-door sales and for *mortgage* loans that are not used to buy your residence.

Personal Property. Property other than real estate.

Pro Se (also called *pro per*). Representing yourself (without an attorney) in a legal case or bankruptcy proceeding.

Refinancing. The process of paying back old debts by borrowing new money either from an existing *creditor* or a new creditor.

Repossession (often called “self-help repossession”). Seizure by the creditor of *collateral* after the debtor’s *default*, usually without court supervision or permission. Repossession is most common in connection with car loans.

Secured Creditor. Any *creditor* that has *collateral* for a debt.

Secured Debt. A debt for which the *creditor* has *collateral* in the form of a *mortgage*, *lien*, or *security interest* in certain items of property. The creditor can seize the property *collateral* if the *debtor defaults* in repayment of the debt.

Security Interest. See “*Lien*,” above.

State Law. A law passed by an individual state that only applies to transactions in that state.

Unsecured Creditor. A *creditor* that has no *collateral* for the debt owed.

Unsecured Debt. A debt that does not involve *collateral*.

Wage Garnishment. *Garnishment* of the *debtor’s* wages from the debtor’s employer.