

## THIRTEEN IMPORTANT CONSIDERATIONS ABOUT BANKRUPTCY

**1. Bankruptcy may be the easiest and fastest way to deal with all types of debt problems.**

Bankruptcy is a process under federal law designed to help people and businesses get protection from their creditors. Bankruptcy can be the right choice if you have no better way to deal with your debts. Although you may want to try other options first, you should not wait until the last minute to think about bankruptcy because some important bankruptcy rights may be lost by delay.

**2. Budget and credit counseling is required *before* filing bankruptcy.** You must receive budget and credit counseling from an approved credit counseling agency within 180 days before your bankruptcy case is filed. The counseling may take less than an hour to complete, but it is important to get this done as soon as you think bankruptcy may be an option, especially if you may need to file to stop a foreclosure sale or repossession. To find an approved credit counseling agency, go to [www.usdoj.gov/ust](http://www.usdoj.gov/ust). The approved counseling agencies are required to waive fees for the service (typically \$30 to \$50) for individuals who cannot afford to pay.

**3. Most bankruptcy cases are complicated.** You should consider getting an attorney. Bankruptcy is a legal proceeding with complicated rules and forms. You probably need an attorney, especially if you hope to use bankruptcy to prevent foreclosure or repossession. Most bankruptcy attorneys will provide a free consultation to help you decide whether bankruptcy is the right choice.

**4. The most important short-term advantage of bankruptcy is that most creditors will be temporarily barred from continuing to collect debts from you except through the bankruptcy process.** This benefit is provided by the “automatic stay,” which is created by filing the necessary paperwork at the beginning of a bankruptcy case. Foreclosures, repossessions, utility shut-offs, lawsuits, and other creditor actions will be immediately (but perhaps only temporarily) stopped. There are exceptions, however, if you filed one or more bankruptcy cases that were dismissed within the previous twelve months.

**5. The most important long-term advantage of bankruptcy is that it can permanently wipe out your legal obligation to pay back many of your debts.** This benefit arises because of the bankruptcy “discharge” that you get for successfully completing a bankruptcy case.

**6. Bankruptcy will usually not wipe out certain types of debts such as alimony, child support, and most student loans.** This means that even if you file bankruptcy, you may remain legally obligated on these debts. If you want to deal with these kinds of debts in the bankruptcy process, you will need to propose a chapter 13 repayment plan, which will require you to make payments from your income over a period of three to five years.

**7. For most consumers, bankruptcy will not mean loss of property.** However, if you have certain types of very valuable property, the bankruptcy law may not allow you to keep it unless you pay its value to your creditors in a chapter 13 plan.

**8. The filing fee for bankruptcy is presently \$274 under chapter 13 and \$299 under chapter 7.** The fee can be paid in up to four installments over a period of 120 days (or up to 180 days with court permission). If you cannot afford to pay the filing fee in installments in a chapter 7 case, and your household income is below a certain amount (150% of the official poverty line), you can ask the bankruptcy court to waive the filing fee.

**9. If you file bankruptcy, you will need to attend a meeting with the bankruptcy trustee.**

The trustee will ask you questions about your bankruptcy case and your finances. Creditors are invited to the meeting with the trustee and have the right to ask you questions, but they rarely attend. Occasionally, there will also be hearings in the bankruptcy court that you will have to attend. If you receive a notice to go to court, it is important that you go.

**10. In order to receive your discharge, you must take a course in personal finances.** The typical course lasts approximately two hours. You can ask your attorney or the bankruptcy court for a list of organizations that provide approved courses.

**11. If you have had financial problems, bankruptcy will usually not make your credit record any worse.** However, the fact that you filed bankruptcy will remain on your credit record for ten years. (Other negative information stays on your record for only seven years.) Some creditors are willing to lend to people who recently filed bankruptcy.

**12. When you have completed bankruptcy, creditors may collect debts that are not discharged and you will have to pay any debt that arose after the bankruptcy case was started.** If a debt is not discharged, you may have to fall back on other strategies. The *NCLC Guide to Surviving Debt* is a good source of information on managing financial difficulties without filing bankruptcy. Even if you file bankruptcy, you may need to use other methods to deal with mortgage problems.

**13. Watch out for bankruptcy-related scams.** There are many people and companies that advertise bankruptcy-related services in order to take advantage of vulnerable, financially distressed consumers. Some advertise help with foreclosure when all they really do is put you into bankruptcy without providing any advice on how this will help or assistance in getting through the process. Many of these businesses charge enormous fees. Others make promises which they cannot possibly keep. Do not pay money for debt counseling, foreclosure assistance, or bankruptcy without being sure you are dealing with a reputable business.