

A Dozen Things to Know About Bankruptcy

1. **Bankruptcy can be the easiest and fastest way to eliminate most debt problems.** Bankruptcy laws are federal laws passed by a specific grant of authority in the U.S. Constitution. They are designed to help people get protection from their creditors and get a fresh start in the financial affairs. It can be the right choice for you 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 rights may be lost by delay.
2. **Budget and credit counseling is required before filing bankruptcy.** You must complete a counseling course from an approved agency within 180 days before your petition is filed. The counseling should take about an hour to complete and may be done in person, by phone, or online. The fee is typically between \$30 and \$50, but counselors are required to waive fees for people who cannot pay. It is vital that you get counseling as soon as bankruptcy is a likely option, especially if the filing will be done at least in part to stop a foreclosure. This is because the course must be completed at least one day before filing and you must file before the sheriff's sale is complete to stop a foreclosure in Michigan. That means if your foreclosure sale is scheduled for Tuesday afternoon your counseling needs to be completed Monday in order to file your petition sometime Tuesday before the gavel falls at the auction.
3. **Bankruptcy cases are complicated.** Technically, anyone can get a set of blank bankruptcy forms from the court's web site and file their own bankruptcy petition. This is almost always a very bad idea. The bankruptcy process is governed by hundreds of pages in interconnected federal and state laws and court rules. On top of that, five different layers of federal court create new law on a daily basis with their opinions interpreting these laws and court rules. Slight misunderstanding of these difficult to follow procedures can cost large amounts of money, may result in your case simply being thrown out of the court, and in the worst case could result in a the debtor being prosecuted for bankruptcy fraud. A lawyer whose practice includes bankruptcy in a significant way will have expensive software to manage the large amount of information required to complete your schedules. They will regularly attend seminars to learn about new developments in the law. And, they will subscribe to a bankruptcy opinion service to learn about new cases on the day they are decided. If you think bankruptcy might be an option for you, and you are not willing to commit to getting this amount of education in bankruptcy, you own it to yourself to consult with an attorney who does.
4. **One of the biggest short-term advantages of bankruptcy is that most creditors are temporarily stopped from making any effort to collect debts.** This is called the "automatic stay". It starts immediately when a bankruptcy case is filed and it stops, foreclosures, repossessions, utility shut-offs, lawsuits, and other creditor actions. Garnishments are also stopped, but they do usually require some extra paperwork.
5. **The biggest long term advantage of bankruptcy is that it can permanently eliminate many of debts.** This comes from the "discharge" that is the end result of most successfully completed bankruptcy cases.
6. **There are certain debts that bankruptcy will not wipe out.** These debts include alimony, child support, most student loans, most taxes, and damages for certain types of wrong doing such as fraud, breach of fiduciary duty, and drunk driving. However, these debts can be addressed in a Chapter 13 plan and some of them may be dischargeable in certain circumstances.
7. **Most consumers lose no property when filing for bankruptcy.** This common fear is usually not an issue for people who are able to file for Chapter 7. Exemption laws allow you to protect the property you are most likely to have. If you have property that will not be able to be protected, and you have properly disclosed all of your assets to your attorney, you should be warned about the risk of loss before filing. Chapter 13 almost never requires a loss of property.
8. **After filing you need to attend a meeting with the trustee and possibly your creditors.** This meeting is often misleadingly called the creditors' meeting. This leads to some confusion among debtors because that might think it is a meeting only for the creditor and that they do not need to attend. Actually, the opposite is true. The

debtor must be at the meeting. Creditors have the right to be there, but their claim will not be waived if they do not come. At the meeting the trustee will ask you some questions and any creditors present will also be able to ask questions.

9. **To get your discharge you must complete a course in personal finance.** This course takes about 2 hours and is available from many of the same providers that give pre-filing budget counseling.
10. **For people with serious financial problems, bankruptcy usually will not make your credit record any worse.** The fact that you filed for bankruptcy will remain on your credit report for ten years, while most negative information only remains for seven years. However, immediately after the discharge is issued the negative reporting of the individual debts should be eliminated and your score should stop going down due to missed payments. An increasing number of creditors are lending to people who recently filed for bankruptcy, thus giving options for rebuilding credit ratings.
11. **When you have completed bankruptcy, creditors can collect debts that are not discharged and you will have to repay any debts that arose after the bankruptcy case was filed.** Your attorney may be able to help you find solutions for resolving debts not discharged in the bankruptcy.
12. **Watch out for debt related scams.** There are many people and companies that offer services related to bankruptcy or “alternatives” to bankruptcy to take advantage of financially distressed consumers. Do not pay any money for debt counseling, foreclosure assistance, or bankruptcy without knowing you are dealing with a reputable business. Among the most common problem companies are those promoting debt consolidation plans as an alternative to bankruptcy. The claim is that you can make one manageable monthly payment to them and they will pay your creditors according to a special plan that only they can negotiate. Frequently though the payment to the company begins before the creditors are on board, so you get further behind on all debts while paying everything you can to the consolidation company. The fees are often many thousands of dollars, which are often paid before any creditors are paid. Missing any payment can result in termination of the program. If this happens it is not uncommon to find that no creditors have been paid any money yet because it all went to the counseling company’s fee. It is also very important to remember that these programs do not offer any of the other benefits of a bankruptcy filing, such as stopping foreclosures, garnishments, repossessions, etc.