How a Bankruptcy Can Help You

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An Immediate Stop of Foreclosures, Evictions, Repossessions, Utility Shut-Offs, Garnishments, and Other Creditor Actions. Your bankruptcy filing will automatically and immediately, without any further legal proceedings, stop most creditor actions against you and your property, at least temporarily.

Your request for bankruptcy protection creates an “automatic stay,” which stops the continuation of or the start of repossessions, garnishments, attachments, utility shut-offs, foreclosures, evictions, and debt collection harassment. The automatic stay provides you time to sort things out and address your financial problems. A creditor cannot take action against you or your property without bankruptcy court permission. Some creditors seek such permission immediately; others never seek permission.

Permission to continue collection activity is rarely granted to unsecured creditors. Secured creditors can get “relief from the stay” in a chapter 7 case to continue foreclosure or repossession of their collateral. But an automatic stay will almost always continue to be in effect to protect you in a chapter 13 bankruptcy case as long as you are making payments on the secured debt.

Discharge of Most Debts. When you successfully complete a bankruptcy, there is a “discharge” (that is, a cancellation) of many of your unsecured debts, such as medical bills and credit card obligations, which eliminates all debt collection and other actions concerning those debts. Certain debts may not be discharged, such as most taxes, liens associated with many secured debts, alimony, child support, and debts you incurred after the bankruptcy case was started. After bankruptcy, you will continue to owe those debts. Student loans can be discharged only if you can prove that repayment will be an undue hardship on you and your family.

Bankruptcy cannot prevent creditors from taking your home or car unless you make sufficient payments on your mortgage or car loan. The bankruptcy though prevents these creditors from seeking additional cash from you after they take the collateral. For example, if you do not pay a car loan, the creditor can seize and sell your car, but the bankruptcy prevents the creditor from seeking additional payment from you if the car’s sale price does not cover the full amount of the debt.

Protection Against Wage Garnishment, Bank Seizures, and Enforcement of Judgment Liens. After you file bankruptcy, creditors are prohibited from garnishing your wages or other income or your bank account. Bankruptcy even stops government agencies from recovering Social Security or other public benefit overpayments, so long as your receipt of the overpayment was not based on fraud.

Bankruptcy also is an effective tool to deal with some types of court judgments against you. If a court judgment for money does not create a lien against your property, that judgment debt can be discharged in bankruptcy. If the judgment does create a lien on your property, you may ask the bankruptcy court to remove the lien if it affects “exempt property,” and then the creditor can never touch that property.

Protection of Your Household Goods from Seizure. Most families’ household goods are exempt from seizure—you keep them even in bankruptcy. This is the case even when a creditor has taken household goods as security for a loan, as long as that loan was not used to purchase those goods. If those household goods were taken as security to purchase those goods (such as when you purchase furniture on credit and the store takes the furniture as collateral for the loan), then see the next paragraphs on “secured creditors” where your rights are explained.

Added Flexibility in Dealing with Auto Loans, Mortgages, and Other Secured Creditors. Bankruptcy can help deal with creditors who take your property as collateral for their loans, such as car loans and mortgage loans. You still have to make payments on these loans if you want to keep the collateral. However, bankruptcy does provide added flexibility in dealing with these debts.

A chapter 7 bankruptcy lets you keep your car by paying the creditor the lesser of what you owe on the loan or the car’s value. If your car is worth $1,000, and the remaining amount on your car loan is $3,000, you can keep the car by paying the creditor only the $1,000. The $1,000 payment usually must be made in a lump sum before the chapter 7 bankruptcy ends (usually after three to five months). Some creditors instead let you pay that amount in installments over a number of months even after the bankruptcy ends, but that is up to the creditor.

A chapter 13 bankruptcy gives you greater flexibility to keep your property. For example, if you are six months delinquent on a
mortgage, filing a chapter 13 bankruptcy stops a threatened foreclosure and allows you to gradually catch up on the back-
payments, over as many as three to five years. In some cases a chapter 13 filing also allows you to make lower monthly
payments by extending the repayment period or lowering the loan’s interest rate. But you have to keep making payments until
the loan is paid off.

**Utility Terminations.** A bankruptcy filing stops a threatened utility termination and restores terminated service, at least for
twenty days. To keep utility service beyond twenty days after the bankruptcy filing, you provide a security deposit (usually
equal to approximately twice the average monthly bill) and keep current on new utility charges, but you need not pay the past-
due charges incurred before the bankruptcy was filed. Often you can take sixty days to pay the deposit and some utilities may
not require a deposit.

**Driver Licenses.** If your driver’s license was or will be taken away because you have not paid a court judgment, such as one
arising from an automobile accident, bankruptcy normally can discharge the obligation to pay the court judgment, and you then
have a right to regain or retain the driver’s license.

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