

Bankruptcy – without a lawyer (*Pro se*)

Filing for bankruptcy can help you get a fresh start, but it is not easy. It takes a lot of time and effort to learn about the legal process, to fill out the forms, and to meet all the requirements. You will have to share *all* of your financial information with the court. That means other people will find out about your situation.

This section tells you more about filing for bankruptcy *without* a lawyer, called *pro se*. To learn more, click on a topic below.

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What is bankruptcy?

Bankruptcy is a legal procedure that lets qualified debtors eliminate (discharge), delay, or reorganize some or all of their debts.

Some debts cannot be discharged or delayed, including:

- Child support
- Spousal support
- Debts that you do not list on your bankruptcy court forms
- Debts that a bankruptcy judge believes you should pay
- Debts you owe because of a personal injury caused by driving under the influence (DUI)
- Court fines

In some cases tax debts can be discharged, but you must meet these conditions:

- The taxes owed are income taxes
- You did not avoid paying on purpose or commit fraud
- You filed a tax return for this debt,
- The debt is at least 3 years old, and
- The IRS must have assessed the tax debt at least 240 days before you file for bankruptcy, or the tax debt must not be assessed yet.

Chapter 7 or Chapter 13?

Chapter 7 is also called 'straight bankruptcy.' It is the most common kind of bankruptcy and is usually for people with very little income or property. In Chapter 7 all non-exempt property is sold to pay your debts.

You cannot file for Chapter 7 if:

- Your debts were discharged under Chapter 7 within the last 8 years,
- Your debts were discharged under Chapter 13 within the last 6 years, or
- Your bankruptcy was dismissed within the last 180 days because:
 - You intentionally disobeyed court orders, or
 - You asked for your bankruptcy to be dismissed (you no longer want the court to approve your bankruptcy petition) after a creditor filed a motion for relief from the automatic stay

Chapter 13 is for people who have regular income and significant property that they want to keep. In Chapter 13 non-exempt property is also sold to pay your debts. But Chapter 13 gives you a chance to set up new payment schedules that give you more time to pay your debts so your property will not be taken.

To file Chapter 13, you cannot have more than \$922,975 in secured debts or more than \$307,675 in unsecured debts. (Secured debts are backed by property, such as a house or car; unsecured debts are not backed by property.)

There are other kinds of bankruptcy too. Chapter 11 is for businesses and Chapter 12 is for family farmers.

How do I decide if I should file Chapter 7 or Chapter 13?

You have to take a "means test." If your income is equal to or less than the median income for

your state, you may file Chapter 7. If it is greater than the median income for your state, you may file Chapter 13.

The median income for Texas was determined by the U.S. Census Bureau. And the IRS sets the amounts of the standard deductions. (how does this apply?)

For more information about the means test, click on this Department of Justice link:

<http://www.usdoj.gov/ust/eo/bapcpa/meanstesting.htm>

Do I have to take a credit counseling course?

Yes. The law says you must take an approved credit counseling class within 6 months *before* you can file for bankruptcy.

Click here to search for an approved class:

www.usdoj.gov/ust/eo/bapcpa/ccde/cc_approved4.htm#TX

How do I file for bankruptcy?

To file for bankruptcy, you must fill out several court forms and provide other documents about your situation.

Where do I get the court forms?

You can download the forms you need from the U.S. Bankruptcy Court website for the Northern District of Texas web site: www.txnb.uscourts.gov/forms/petitions/

Start with the entire Petition Set, which includes these forms:

Chapter 7

- *Voluntary Petition*, Form 1
- *Statement of Current Monthly Income and Means Test Calculation*, Form 22A
- *Statement of Social Security Number*
- *Schedules A – J*, Forms 6 and 6A-6J
- *Statement of Financial Affairs*, Form 7
- *Chapter 7 Individual Debtor's Statement of Intention*, Form 8
- *Notice to Individual Consumer Debtor*, Form B 201
- *Copies of pay advices like pay stubs, for the last 60 days*
- *Names and Address of Persons to Receive Bankruptcy Notices*, Creditor Matrix
- *Certificate of Credit Counseling (This is a local form.)*

Chapter 13

- *Voluntary Petition*, Form 1
- *Statement of Current Monthly Income and Disposable Income Calculation*, Form 22C
- *Statement of Social Security Number*
- *Schedules A – J*, Forms 6 and 6A-6J
- *Statement of Financial Affairs*, Form 7
- *Names and Address of Persons to Receive Bankruptcy Notices*, Creditor Matrix
- *Copies of pay advices like pay stubs, for the last 60 days*
- *Certificate of Credit Counseling (This is a local form.)*

If you cannot afford to pay your filing fee, you must also file:

- *Application for Waiver of Chapter 7 Filing Fee*, Form 3B

Application and Order to Pay Filing Fee in Installments, Form 3A

You may also have to file these local forms:

- *Statement of Anticipated Increase in Income or Expenses, Form B21*
- *Certificate as to Credit Counseling*
- *Debt Repayment Plan from credit counseling agency (if you have one)*
- *Statement of Interest in Education IRA or Qualified State Tuition Program (if applicable)*

Some districts have other forms that you must file. Check your district's web site for instructions and a list of all the forms you need to file.

How do I know which forms I need?

You must fill out ALL of the forms listed above. You may have to fill out other forms too. If so, your trustee or creditor(s) will let you know.

Do I have to give all the information the court asks for on my forms?

Yes. Answer honestly and completely. If you make a mistake or do not give the correct information, the court may not approve your bankruptcy.

What other documents do I need?

You must also take copies of these documents to your creditors meeting (also called the 341 meeting):

- Statements from all your creditors
- Tax returns for the past 3 years
- Proof of income, like pay stubs
- Valid Texas Driver's License and Social Security card

What do I do with my forms after I fill them out?

Take your completed forms and other documents to the Bankruptcy Court for your district. You will have to file your forms with the court clerk.

There are four federal court districts in Texas (Northern, Southern, Eastern, and Western). Each one covers a different part of the state, and you must use the federal court branch assigned to where you live.

To find your branch, click below:

www.txnb.uscourts.gov/general/citycountysearch.jsp

If you do not have an attorney, you do not *have to* file electronically. But you can if you want to.

How do I know if I have filled out all the right court forms?

Ask the court clerk if you are missing any forms or papers and when they are due.

Do I have to pay to file my forms?

Yes. The court clerk will ask you to pay a filing fee. If you do not have enough money to pay the entire fee, you can apply for a waiver or ask the court for permission to pay the fee in installments.

What happens after I file my forms?

The clerk will give you a document that proves you have filed for bankruptcy.

The court will notify all of the creditors you listed on your forms that you have filed for bankruptcy.

Often the court makes an order that says your creditors cannot contact you to ask for payment or try to take your property away. This is called an *Automatic Stay*. If your creditors have not received the court papers yet and they try to take your property or demand payment, give them a copy of your proof of filing for bankruptcy.

After you file your bankruptcy papers at court, the clerk will assign a case number, a judge, and a trustee to your case.

What is a trustee?

A trustee is an officer of the court appointed to represent your bankruptcy case.

The trustee will:

- Review your case and provide information to your creditors
- File reports, inventories, and make recommendations to the court

If the trustee does not think that bankruptcy is appropriate for your situation, s/he will let the court know.

Do I have to meet with my creditors?

Yes. When you file your papers, the clerk will tell you the time, date and location of your creditor's meeting. You must go to this meeting and take proof of your income and identity. The trustee and your creditors will also go to the creditor's meeting.

The trustee will explain your financial situation to your creditors. You may also have to answer questions and provide more information. The meeting gives you a chance to ask your creditors to cancel some of your debt or to set up a repayment plan. It also gives your creditors the chance to oppose your bankruptcy.

Will filing for bankruptcy affect my credit record?

Yes. A bankruptcy will appear on your credit report. It may be harder for you to get credit in the future.

What happens if the court approves my bankruptcy petition?

If the court approves your bankruptcy petition, you will have to take a debtor education course. When you complete the course, your debts can be discharged.

Can I choose to pay a debt that has been discharged?

Yes. Sometimes agreeing to pay a debt lets you keep your property. If you, the creditor, and the Court agree, you can sign a Reaffirmation Agreement that allows you to make reasonable payments to pay off your debt.

Will my home be sold?

Maybe. If filing for bankruptcy leaves you with enough money to pay the mortgage, you may be able to keep your home. Otherwise, you may lose your home.

What if I owe more on my property than it is really worth?

In Chapter 13, you can “cram down” secured debts that are worth more than the property that secures them. For example, if you owe \$10,000 on your car, but the car is only worth \$6,000, you can ask the court to reduce your debt to \$6,000. You can only do this if you bought your car at least 30 months before you filed for bankruptcy.

You cannot cram down any other personal property unless you bought it at least one year before you filed for bankruptcy

Can my pension, IRA, and 401(k) be seized?

In Texas, your pension, 401(k)s, and Roth IRAs cannot be seized to pay your debts. Other types of IRAs can be seized to pay your debts.

What if there is a cosigner on my debts?

In Chapter 13 and Chapter 7 bankruptcies, cosigners are protected as long as you make the payments you agreed to. If the payments are not made, the cosigner can be held responsible for the debt.

Where can I get more information?

The U.S. Bankruptcy Court website for the Northern District of Texas has a special section called *Debtors Without Attorney Representation (Pro Se)*.

This section has information, court forms, and answers to many questions.

Click here to learn more:
www.txnb.uscourts.gov/prose/

Is filing for bankruptcy in your best interest?

Before you decide to file for bankruptcy, review the article [Alternatives to Bankruptcy](#). This article lists alternatives you can consider first.

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