



BANKRUPTCY

Bankruptcy allows debtors a financial “fresh start” from debts that are overwhelming and massive. However, going through a bankruptcy is a serious choice and should not be taken lightly. The two main types of bankruptcies will be compared below.

CHAPTER 7 BANKRUPTCY

Chapter 7 bankruptcy is often referred to as a “liquidated bankruptcy proceeding.” Upon filing for bankruptcy under Chapter 7, the debtor’s non-exempt assets are gathered by the bankruptcy trustee who sells the property to make a distribution to the debtor’s creditors. The debtor is allowed to keep certain exempt property. Exempt assets include, but are not limited to, public benefits, motor vehicles, necessary clothing, and necessary household goods. A portion of the equity in your home may also be exempt. Exempt and non-exempt assets are determined by statute. Ask a bankruptcy attorney for further clarification on exempt and non-exempt assets. In 2005, the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) went into effect. Among other things, this subjects most debtors who earn an income to a means test that determines their eligibility to file for a Chapter 7 bankruptcy.

CHAPTER 7 BANKRUPTCY	
ADVANTAGES	DISADVANTAGES
<ul style="list-style-type: none"> - Fast process, 4-6 months - Creditors no longer have a claim - Unpaid balances are discharged after assets are distributed 	<ul style="list-style-type: none"> - Can lose non-exempt property - Not all debts are discharged - Certain liens still in effect - Trustee can challenge plan as abusive

CHAPTER 13 BANKRUPTCY

Chapter 13 bankruptcy is often referred to as a “reorganization bankruptcy.” When filing for Chapter 13 bankruptcy, the debtor proposes a plan to pay his creditors over a 3 to 5 year period. The plan details and repayment schedule must begin within 30 to 45 days after the case has started. A Chapter 13 plan is filed with, or shortly after, the debtor’s Chapter 13 petition. The plan must provide that unsecured creditors will receive as much through a Chapter 13 petition as they would receive under a Chapter 7 liquidation. Also, the plan must be approved by the creditors or the creditors must be paid in full. If neither of these conditions are met, then all of the debtor’s disposable income must be committed to the plan over the 3-5 years.

CHAPTER 13 BANKRUPTCY	
ADVANTAGES	DISADVANTAGES
<ul style="list-style-type: none"> - Keep all property - Court can allow more time than original contract to pay off debt - No limit to how many times you can file 	<ul style="list-style-type: none"> - Not completed until payment schedule is satisfied - Limited amount can be discharged - Still have to repay debts

Filing bankruptcy is a serious decision and will have a negative impact upon your credit rating, as well as your ability to receive loans or additional credit. For Servicemembers, filing for bankruptcy may also result in suspension or revocation of your security clearance. Always consult with an attorney before filing for bankruptcy.

Updated November 2022

This Information Paper provides only basic information and is not intended to serve as a substitute for personal consultation with a Legal Assistance Attorney. To schedule an appointment with a Legal Assistance Attorney, please contact the Legal Assistance Office at (580) 442-5058. The Fort Sill Legal Assistance Office is located on the 4th Floor of Building 4700 (Welcome Center) at 4700 Mow-Way Road, Fort Sill, Oklahoma 73503.