



Chapter 13 Bankruptcy

Payment Plan Bankruptcy

What is Chapter 13 bankruptcy?

It is a payment plan OK'd by the bankruptcy court. You and your lawyer write the payment plan. It lets you pay all or part of your debts over time. It protects you from being sued and having your belongings taken.

How is Chapter 13 different from Chapter 7 bankruptcy?

A Chapter 7 or "straight bankruptcy" lets you get rid of (discharge) debts without paying them. See our booklet "Chapter 7 Bankruptcy" to find out more.

A Chapter 13 plan lets you pay all or part of your debts over time. You make payments you can afford. Except for a few things, you get rid of what you don't pay through the plan.

Is Chapter 7 or Chapter 13 better?

Your lawyer will tell you what kind of bankruptcy is best for you. In some cases, only a Chapter 7 will work. But in many cases, a Chapter 13 is better. In some cases, you may have to file Chapter 13 instead of Chapter 7. It depends on the facts of each case. Each case is different.

Do you have property that can be taken away (repossessed), if you don't pay? Then Chapter 13 usually works better. In most cases, Chapter 13 lets you keep what you bought while you pay for it. It lets you pay your debts at a rate you can afford. In some cases, you can have lower payments or pay less than the full debt.

With a Chapter 13 bankruptcy you make one payment each pay period or each month. This way you pay all or part of your debts. While you pay, your creditors can't take your property or your pay check.

Who can file a Chapter 13 Plan?

Anyone with enough regular income to pay basic living expenses plus Chapter 13 payments. Your income doesn't have to come from a job.

Basic living expenses are rent, food, lights, heating and cooling, insurance, clothing and transportation. Try adding up these costs. Don't count your monthly payments to creditors. See if you would have money left each month for a Chapter 13 Plan.



You need a lawyer to tell you if Chapter 13 will work for you. Most lawyers won't make you pay their fee up front. The lawyer's fee and court filing fee will be in your Chapter 13 payments.

What happens when you file a Chapter 13?

You must give your lawyer a list of **ALL** your debts. You must also give your lawyer a list of everything you own. You must tell your lawyer everything about your money situation. Your lawyer will tell you about the two kinds of bankruptcy, Chapter 7 and Chapter 13.



Before you file a Chapter 13, you and your lawyer work out a payment plan. The lawyer writes your Chapter 13 papers (the petition and other papers).

You read and sign the bankruptcy papers. You must swear under oath that as far as you know the information is correct.

You will have to take a credit counseling class. Many lawyers have it set up so you can do this over the internet.

Your lawyer files your bankruptcy papers with the court. This is done by computer over the internet.

The court tells everyone listed in your bankruptcy that you have filed a Chapter 13. The Court also tells them when to come to the creditors' meeting.



You and your lawyer must go to the creditors' meeting. There, the Chapter 13 trustee will ask you questions. This is to make sure

your bankruptcy filing is complete and correct. Your creditors may also ask about your debts and what you own.

If the court OKs your payment plan, you make payments to the Trustee. The Trustee makes sure the money goes to your creditors each month. If you work, the payments are taken out of your pay check and sent to the Trustee.

You must make all your Chapter 13 payments in full and on time. If you miss a payment, the Trustee may drop (dismiss) your case. If that happens, the court can't protect your property from creditors.

How often can I file a Chapter 13?

There are no rules on how often you can **file** Chapter 13. **But** there are time limits for getting a discharge. At the end of a bankruptcy, you may still owe money on your debts. A **discharge** means you don't have to pay what is still owed. It is important to get a discharge so creditors can't collect.

Did you have a Chapter 7 discharge within 4 years of filing a new Chapter 13? Then you **won't** get a Chapter 13 discharge after you finish your payment plan.

Did you get a Chapter 13 discharge within 2 years of filing a new Chapter 13? Then you **won't** get a Chapter 13 discharge after you finish your payment plan.

BUT, it still might be a good idea to file a Chapter 13. It won't get rid of your debts, but it can stop an eviction or foreclosure. This gives you a chance to pay up the late rent or mortgage payments. It can keep you from having to move, at least for a while.

How big would my Chapter 13 payments be?

It depends on:

1. How much you owe
2. How long the Plan will last and
3. How much you can pay each month



You and your lawyer talk about and write the Plan. Together you come up with the monthly amount needed to pay your debts.

Will I lose my home if I file Chapter 13?



Not if your Chapter 13 Plan includes house payments and any back payments. Many people file Chapter 13 to keep their homes. If your home is in foreclosure, tell your lawyer right away.

What if I'm behind on my rent?

You may be able to stop an eviction with a Chapter 13. It works very well if you live in Section 8 or public housing.

You pay your back rent in your Chapter 13 payments. This may work even if you broke the lease. The bankruptcy must be filed **BEFORE** your landlord gets a court order to evict you. Have you been served with court papers? **OR** do you think your landlord is going to evict you? Then see a lawyer **right away**.



Can I keep what I put up as collateral (security) on a loan?

In many cases, yes. Ask your lawyer how it will work in your case.

Can I be sued after filing a Chapter 13?

Once you have filed your Chapter 13, the creditors listed in your bankruptcy can't sue you. **AND** they can't take (garnish) your paycheck. If you are sued, tell your lawyer right away. Do they want to take your property or home for debts listed in the bankruptcy? They can't without the Court's OK.

What if you forgot to put a creditor in the Chapter 13? Tell your lawyer right away. You probably can go back and add it to the plan.

What about when you finish all of your plan payments? You should not be sued for any of the debts that were discharged or paid off in the Chapter 13. This is true for all except a few creditors. Ask your lawyer about this. You can be sued for debts that were not listed on the bankruptcy. **BUT** your paycheck can't be garnished until the bankruptcy is over.

Can I list debts in my Chapter 13 that I have already been sued on?

Yes, you must list **ALL** your debts, even those you don't think you owe. Bankruptcy Court has ways to settle these disagreements.

Should my husband or wife also file Chapter 13?

Not always. Ask your lawyer about this.



Is Chapter 13 the best way to stop bill collectors from bothering me?

Not always. There are other ways to stop bill collectors who bother you. See our booklet "Bill Collectors Bugging You?".

You may be able to set up a payment plan through a credit counseling company. Creditors don't have to agree to a payment plan from a counseling agency. But many creditors will agree. You may be able to stop or lower interest while you make payments.

A "Slow Pay Motion" can help if you are sued over just one or two debts. This lets you make small payments and stops garnishment of your paycheck. See our booklet on "How to Keep Your Paycheck from Being Garnished." Ask your lawyer about other ways to handle your bill problems.

What if my car was repossessed?

If they haven't sold it yet, a Chapter 13 Plan may help get it back. But, you must have enough income to pay for your car in your Chapter 13 Plan. And you will have to keep insurance on the car. If you don't, you will have to give up the car.



What happens to my credit rating after I file a Chapter 13?



That depends. If you need a Chapter 13, you probably have a poor credit score already. When you finish your Chapter 13 plan, tell the credit bureau. Ask that your credit report show that you paid off your Chapter 13 plan.

What if you want to go into new debts while you are in Chapter 13?

You can't make a new debt without getting the court's OK **first**. This includes:

- Payday loans
- Rent-to-own
- Car leases and loans
- Loans from family and friends and
- "Rapid refunds" for your tax refund

The court will OK the new debt **IF** it's for a good reason. It must make good money sense **AND** your budget must show you can afford it.

Can I get credit after I finish my Chapter 13 Plan?

Maybe. A bankruptcy doesn't make your credit look better. Some creditors will say you are a bad risk and won't give you credit. Others will be glad to give you credit but will charge you high interest.

You may want to ask for our booklets on:

- Bill collectors
- Garnishment, and
- Protecting your property after you have been sued.

Legal Aid Society

of Middle Tennessee and the Cumberlands

1-800-238-1443

It's a free call.

On the internet at **www.las.org**

NOTE: This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice.

