

# Massachusetts Bankruptcy Law

[Main](#)[The Process](#)[FAQ](#)[Exemptions](#)[Bankruptcy Court](#)[Chapter 7 or 13  
Bankruptcy?](#)[Means Test](#)[Chapter 7](#)[Chapter 13](#)[Attorneys](#)[Alternatives](#)[Debt Consolidation](#)[Credit Counseling](#)[Approved Massachusetts  
Pre-Bankruptcy Credit  
Counseling](#)[Approved Massachusetts  
Debt Education Courses](#)

## Massachusetts Bankruptcy Process – How to File Bankruptcy in Massachusetts

### *2005 Bankruptcy Act Credit Counseling*

The 2005 Bankruptcy Act requires all individual debtors who file bankruptcy on or after October 17, 2005, to undergo credit counseling within six months before filing for bankruptcy relief and to complete a financial management instructional course after filing bankruptcy.

### *2005 Bankruptcy Act Means Test*

Under the 2005 Bankruptcy Act your income and expenses will be analyzed to determine if you qualify to file a Chapter 7 or if you must file Chapter 13. To apply the means test, the courts will look at the your average income for the 6 months prior to filing and compare it to the [median income for Massachusetts](#). If the income is below the median, then you may choose Chapter 7. If your income exceeds the median, the remaining parts of the means test will be applied to determine if you can file Chapter 7 or if you must file Chapter 13. (See [Massachusetts Means Test](#))

### *Gathering Paperwork*

To begin the bankruptcy process you must itemize your current income sources; major financial transactions for the last two years; monthly living expenses; debts (secured and unsecured); and property (all assets and possessions, not just real estate). You should also collect your tax returns for the last two years, deeds to any real estate you own, your car(s) titles, and the documents for any loans you may have.

### *Filing Bankruptcy*

Once you have gathered this information, either on your own or with the help of an attorney, you should then determine which property you believe is exempt from seizure based on the [Massachusetts exemptions](#). To actually file, either you or your attorney, will need to file a two-page petition and several other forms at your [Massachusetts district bankruptcy court](#). These forms, collectively are referred to as the schedules and ask you to describe your current financial status and recent financial

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Fill out this form and we will connect you with an attorney near you for a **FREE case review**.

**First Name: \***

**Last Name: \***

**Contact Phone Number: \***

**Email: \***

**Zip Code: \***

**Total Debt: \***

**Total Monthly Income: \***

**Do you own real estate? \***

**Estimated Total Value of Your Assets: \***

**Describe your case: \***

**SUBMIT**

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transactions (typically within the last two years). If your creditors or the judge feel or find out that you have not been entirely forthcoming in your bankruptcy filing, it could jeopardize the outcome of your petition.

The cost for filing a Chapter 7 bankruptcy is \$306. This fee may not be waived but you may be able to pay it in installments. The fee of \$281 for a Chapter 13 bankruptcy cannot be waived.

### ***Chapter 13 Requirements***

If you are filing a Chapter 13 bankruptcy, a proposed repayment plan must also be submitted. After reasonable monthly expenses have been paid, how much money will you have left over to put toward your outstanding bills? And how will this money be divvied up among those you owe? Priority claims (such as taxes and back child support) must be paid in full; unsecured debts (like credit card debt and medical bills) are usually paid in part. Depending upon the judgments of those involved with your case, unsecured debts can be paid off for as little as 10 cents on the dollar.

In addition to the general requirements listed above, the repayment plan must pass each of the following three tests:

- 1) It must be delivered in good faith.
- 2) Unsecured creditors must be paid at least as much as if a Chapter 7 bankruptcy had been filed. Generally, this is the value of all the nonexempt property you own (see [Massachusetts bankruptcy exemptions](#)).
- 3) All disposable income must be paid into the plan for at least three years (you may use up to five years in order to meet the second test that you pay at least as much as in a Chapter 7).

If you have filed Chapter 13, you must begin making your plan payments. Generally these payments will be withdrawn directly from your wages and you or your attorney should arrange with the court for these payments to be deducted from your wages.

### ***Automatic Stay***

Once you have filed your paperwork with the bankruptcy court, an automatic stay immediately goes into effect. This provision prevents creditors from making direct contact with you or staking a claim on any of your property from the day of filing forward. This will stop any foreclosure proceedings.

### ***Bankruptcy Trustee***

Upon filing, the court will assume legal control of your debts and any property not covered by your

**Massachusetts exemptions.** A trustee will be appointed to your case by the court. The job of the trustee is to see that your creditors are paid as much as possible. This person will thoroughly review your paperwork, particularly the assets you have in your possession and the exemptions you wish to claim, and can challenge any element of your case.

### ***341 Meeting of Creditors***

Approximately a month after filing, the trustee will call a first meeting of creditors, which the debtor must attend. This proceeding is also referred to as the § 341 meeting, named after the corresponding section of the bankruptcy code. Creditors rarely attend a Chapter 7 bankruptcy meeting; one or two creditors may attend a Chapter 13 meeting, especially if there is a question as to the legitimacy of some aspect of the plan. Objections are typically resolved by negotiation between the debtor or the debtor's counsel and the creditor. If a compromise can not be reached, a judge will intervene.

The meeting of creditors typically lasts about five minutes. You will receive notice of the location of the meeting but you may contact the court to confirm the address and time. (see [Massachusetts Bankruptcy Court Directory](#)) Most Chapter 7 filings involve no non-exempt assets, however, if you filed for Chapter 7 and do have non-exempt assets, you will have to turn over non-exempt property (or its fair market value in cash) to the trustee after the meeting. The trustee will sell this property and distribute the proceeds to your creditors. If the property isn't worth a great deal or would be hard to sell, the trustee may decide to abandon the property (and return it to you). Trustees and creditors have 60 days to challenge the debtor's right to a discharge. If there are no challenges, you will receive a notice from the court that your dischargeable debts have been discharged within three to six months.

### ***Chapter 13 Plan Confirmation***

If you filed a Chapter 13 plan, you will need to attend a hearing before a bankruptcy judge who will either confirm or deny the repayment plan. If your plan is confirmed and you make good on it, the balance (if any) on the dischargeable debts you owe will be eliminated at the end of your term.

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