

Chapter 7 Bankruptcy Process in New York

You will need to gather certain information before filing for Chapter 7 bankruptcy, including:

- a list of all creditors and the amount and nature of their claims;
- description of your income, including source, amount, and frequency;
- a list of all your property; and
- a list of your monthly living expenses, including food, clothing, shelter, utilities, taxes, transportation, medicine, etc.

If you're married, you must include a description of your spouse's income and any property or debts that you own or are obligated on jointly, even if you're not filing a joint petition with your spouse. This is so that the court can evaluate your household's overall financial condition.

Next, before filing for bankruptcy, you're required to go to take a credit counseling course (which can be done online or over the phone) and obtain a credit counseling certificate (which is good for six months). You must obtain your credit counseling from a counseling agency that is on the [government's approved list](#). There is a fee for credit counseling, but the fee is low—about \$25 to \$35.

To start your bankruptcy, you will file a bankruptcy petition, which includes some of the following documents:

- list of assets;
- list of liabilities;
- list of current income and expenses;
- statement of financial affairs;
- list of contracts and leases;
- copy of the tax return or transcripts for the most recent tax year;
- credit counseling certificate;
- evidence of payment from your employer received 60 days before filing;
- statement of monthly net income and any anticipated increase in income or expenses after filing;
- records of any interest you have in education or tuition accounts;
- list of exempt property; and
- records of any interest you have in retirement accounts (i.e. pension, 401(K)s, etc.).

As of this date, the filing fee to start a Chapter 7 case is \$335. This fee can sometimes be paid in installments, or waived entirely if your income is low enough.

By filing for Chapter 7 bankruptcy, you are essentially turning over your nonexempt property to the bankruptcy court. You are not allowed to sell or give away any of your nonexempt property while the bankruptcy is ongoing. When you file for bankruptcy, a bankruptcy "estate" is created. The estate basically becomes the owner of your nonexempt property and any nonexempt property you have an interest in. Most (but not all) of your debts are discharged in Chapter 7 bankruptcy.

You will need the bankruptcy court's permission if you want to reaffirm (agree to continue to repay) any debts that are part of the bankruptcy filing (i.e. a mortgage or a car loan). However, with a few exceptions, the property you acquire after the bankruptcy was filed and the income you earn after that time is within your control and you may do what you want with it.

The court will appoint a "bankruptcy trustee" to oversee your bankruptcy case. The trustee will first look at all the paperwork you filed to make sure everything is complete and in order. The trustee will then look for nonexempt property that can be sold to pay your creditors. In most Chapter 7 cases, the trustee does not find very much (if any) nonexempt property that can be sold. The trustee then tries to make sure your creditors are paid as much as possible of the debt you owe them.

Next, the trustee will hold a meeting of your creditors. You are present at that meeting, and you will be put under oath and asked about your property and other financial affairs. If you have filed jointly with your spouse, you will both be required to be at the creditors' meeting to

answer questions. In most cases, this will be the only time you are required to go to bankruptcy court.

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