

Kansas Legal Services

A non-profit law firm and community education organization helping low and moderate income people in Kansas



www.kansaslegalservices.org

All About Bankruptcy

It is important that you think carefully about the long term effects of a bankruptcy and also the timing of filing for bankruptcy. **This article** from the National Consumer Law Center will help you think through these issues.

Federal law provides the right to file bankruptcy for people with debt problems. This article explains how bankruptcy can help you and when it may be the wrong solution for you.

It also describes the **difference between chapter 7 and 13 bankruptcies**, lets you know the best time to file for bankruptcy, and sets out what a bankruptcy will cost.

Importantly, the article corrects common misconceptions about bankruptcy.

While you should consider other options first, do not wait until the last minute to think about bankruptcy. Important rights may be lost by delay.

What Bankruptcy Can and Cannot Do

Bankruptcy may make it possible for you to:

- Eliminate your responsibility for many of your debts and get a fresh start. When a debt is discharged at the close of a successful bankruptcy, you have no further legal obligation to pay that debt.
- Stop foreclosure on your house or manufactured home and allow you an opportunity to catch up on missed payments
- Prevent repossession of your car or other property, or force the creditor to return property even after it has been repossessed.
- Stop wage garnishment, debt collection harassment, and other similar collection activities to give you some breathing room.

- Prevent termination of utility service or restore service if it has already been terminated.
- Lower the monthly payments on some debts, including car loans
- Allow you an opportunity to challenge the claims of creditors who seek to collect more than they are legally entitled.

Bankruptcy, however, cannot cure every financial problem, nor is it an appropriate step for every individual.

In bankruptcy, it is usually not possible to:

- Eliminate certain rights of “secured” creditors. A “secured” creditor has taken some form of lien on your property as collateral for a debt. Common examples are car loans and home mortgages. You can force secured creditors to take payments over time in the bankruptcy process, but you generally cannot keep the collateral unless you continue to pay the debt.
- Discharge certain types of special debts, such as child support, alimony, most student loans, court restitution orders, criminal fines, and some taxes.
- Protect all cosigners on their debts. When a relative or friend has cosigned a loan and you discharge the loan in bankruptcy, the cosigner may still have an obligation to repay all or part of the loan.
- Discharge debts that are incurred after bankruptcy has been filed.

[Read more of this article here.](#)

How can I file a bankruptcy in Kansas?

Several resources are available. Pick the one that is right for you.

Kansas Bankruptcy Court forms. The Bankruptcy court makes **forms available for self represented persons.** It doesn't answer any questions you might have. It is just a form to fill out.

Upsolve provides a screening tool to see if their free program is a good fit for you. Then, the free program guides you to questions. Answering these questions will automatically complete bankruptcy forms that you can file as a self represented person.

If you request it, this site does make referrals to private attorneys who take bankruptcy cases for a fee that you pay.

Kansas Bar Association Reduced Fee program allows a family to hire an attorney at a lower than typical rate. This program is for people under 250% of the Federal Poverty Guidelines (about \$43,000 for a family of 2).

There is a charge for this attorney. The attorneys are located near the bankruptcy courts, rather

than in your local community. Kansas Legal Services is part of this program.

You can apply here.

Kansas Bar Association Lawyer Referral Program. If you want to hire an attorney for bankruptcy and don't qualify for the Reduced Fee program, the Lawyer Referral Program can match you with an attorney to work with you.

This program does not have free or low fee attorneys. **You can contact this program here.**

CHAPTER 7 BANKRUPTCY FREQUENTLY ASKED QUESTIONS

What is a Chapter 7 bankruptcy?

This part of the bankruptcy law allows a person (called a debtor in the case) to discharge certain debts by filing a case in the bankruptcy court, turning over all non-exempt property to a trustee and following the orders and rules of the Court. If things proceed correctly, then a court order releases the debtor from all dischargeable debts and orders the creditors not to take any action to collect those debts from the debtor.

In what Court is a bankruptcy filed?

These cases are filed in a special bankruptcy court. It is a part of the Federal Court system.

There are three Federal Courthouses in Kansas, where these cases can be filed.

- Wichita – 401 N Market, Wichita, 67202
- Kansas City – 500 State Avenue, Kansas City, KS 66101
- Topeka - 444 S.E Quincy, Topeka, Ks 66683

How often will I have to go to this court?

You can file in whichever of these courts you choose.

But consider that you will have to go to this Courthouse at least twice. You will go there the first time to file your case.

You will go a second time for a "Meeting of the Creditors," where the bankruptcy trustee will ask you some questions.

Where can I learn more about the hours, parking, COVID precautions, etc. for Kansas Bankruptcy courts?

The courts have a website here: **<https://www.ksb.uscourts.gov/>**

Will I get to keep my car?

Yes, the bankruptcy court allows you to exempt, or keep, one car. If there is a loan on it you will need to stay current on the payments.

You may need to sign and file a Reaffirmation Agreement with the Court that states you can afford the payments.

Will I get to keep my house?

Yes, you can keep your house, and you will need to be current on the mortgage payments.

You may need to sign and file a Reaffirmation Agreement with the Court that states you can afford the payments.

(Chapter 13 may be more appropriate if there is a mortgage, or if the debtor is behind in the mortgage payments.)

What other things I might own or receive are "exempt" from a creditor in a Kansas bankruptcy case?

- Your household goods and clothing
- jewelry up to \$1,000 per person filing
- Cemetery lot you own and prepaid funeral agreement
- Tools you use for work up to \$7,500 per person filing
- Life Insurance you own, if purchased more than 1 year before filing
- Retirement Benefits, from your job
- Unemployment Benefits
- Workers Compensation Award
- Social Security (disability or retirement), Veterans Benefits, Railroad Retirement, Civil Service payments

What about my Income Tax Refund?

That is NOT on the exempt list.

The court will require that you provide a copy of your tax refund for the year in which you file bankruptcy, and also for the year before you file.

The court may require that you turn over to the court a portion of your refund for the year in which you file the bankruptcy, which will then be distributed to your creditors.

As a practical matter, this means that the earlier in the year you file, the less will go to your creditors. It also means that if you file bankruptcy, you should save your tax refund that year (received in the next year) until this issue in your bankruptcy is resolved.

What if I cannot afford the filing fee?

You can ask the Court to let you pay the fee in 4 installments.

Or if your income is less than 150% of the federal poverty level you can file an Application for Waiver of the Filing Fee with the Court.

The bankruptcy judge will determine if the fee can be waived.

What debts do I need to list in my bankruptcy?

You need to list every debt and creditor that you owe.

What if I want to exclude some debts?

This is not a good decision. If it isn't listed, it isn't bankrupted.

There can also be a problem if you pay a large payment to one creditor (especially a family member) in the 12 months before you file for bankruptcy.

What if I know I will have more medical bills after I file bankruptcy?

Only debts that you have on the date you file a bankruptcy are included in your case; any medical bills or other debts that occur after the filing date will not be included, and will not be discharged.

What debts cannot be eliminated (discharged) in bankruptcy?

Debts for certain taxes, debts where the debtor lied/defrauded in order to create the debt, debts that aren't listed on the court papers, alimony, maintenance or child support, fines and penalties from criminal cases, student loan debt in many cases.

How long will bankruptcy take?

About 21-40 days after you file the bankruptcy petition and other forms, you will appear before the bankruptcy trustee (the person who will administer the case for the Court) at the meeting of creditors hearing. Your creditors will have received notice about the bankruptcy filing, and they have the opportunity to appear at the hearing. Generally, about 60-90 days after the creditors hearing, the court will issue a discharge of your debts. However, depending on the complexity of your case it can take longer.

Who is the bankruptcy trustee?

An attorney appointed by the Court to handle the bankruptcy and primarily look after the

creditor's interests.

If there is paperwork to be reviewed or a tax refund to be distributed, the bankruptcy trustee is the person who does that.

Even though they run the Meeting of the Creditors hearing, they are NOT the judge in the bankruptcy case. You don't call them "Your honor".

Note: These answers are written to provide general legal information, not legal advice. Your situation may be different or involve one of the exceptions in this area of the law. These resources are not designed for complex or complicated legal issues. In those situations, hiring a lawyer will be your best option.

 [NCLC Digital Library - Deciding Whether to File for Bankruptcy_ Consumer Debt Advice from NCLC - 2018-09-18.pdf](#)

Printed: May 15, 2021

<http://www.kansaslegalservices.org/node/all-about-bankruptcy>

©Kansas Legal Services