

What the Credit Industry Doesn't Want You to Know About Bankruptcy

This article explores some common misconceptions about bankruptcy and the "new" bankruptcy law revisions that went into effect in 2005. Did you know that you may be able to keep your home and automobile after bankruptcy?

1. The "new" bankruptcy law that went into affect in October, 2005 isn't very much more restrictive than the "old" law.

The law revision got a lot of press that made it sound like it would be much more difficult—perhaps impossible—to file for bankruptcy protection after the new law went into effect.

It's true that there are some additional steps and additional paperwork. Filing bankruptcy is a little more work and requires a little more preparation than it did before (although most of that work falls more on your attorney than it does on you). However, the end result is the same for most debtors. Once the means testing and the credit counseling session are over, the vast majority of people end up filing exactly the same kind of bankruptcy petition that they would have before the law changed. And for that very small percentage of people who may not be eligible to file a Chapter 7 bankruptcy, Chapter 13 is still available.

2. Most people who file for bankruptcy protection don't lose any property.

The U.S. bankruptcy code provides exemptions that allow you to keep a certain amount of value in large property like your home and your automobile. In addition, there are extensive exemptions for clothing, furniture, and personal property. Bankruptcy law wouldn't provide much protection if it left you without a place to live or a means to get back and forth to work!

In addition, some states have exemptions available that go beyond those provided by the federal statute. Most people who are considering filing for bankruptcy don't own a lot of high-ticket items—their property consists primarily of what they need to live and work. That's exactly the kind of property that the bankruptcy law intends to protect from creditors.

3. You can rebuild your credit in just a few years after bankruptcy.

You may have heard that bankruptcy "stays on your credit" for ten years. That's true, but it's not the whole story. The truth is that your credit score—the number that has the greatest impact on your ability to get new credit and secure favorable rates—is more influenced by recent activity.

Very soon after you've filed bankruptcy, you'll begin to get credit offers. You'll want to exercise great caution in deciding which offers to accept, and when. Many of the creditors who will solicit your business right after bankruptcy will attach outrageous fees and charges to these accounts—the kind of unexpected, mounting costs that will put you right back in financial trouble. However, by judiciously accepting credit accounts you can handle and making payments that are timely and are more than the minimum required, you can begin to rebuild your credit.

Most debtors who are able to keep their bills current after bankruptcy are able to re-establish their credit in 2-4 years. Sure, the bankruptcy will still appear on your credit report, but if your current credit is solid, that's not likely to keep you from buying a home or a car or even obtaining some unsecured credit accounts.

4. Most of the people who file for bankruptcy protection are honest, hard-working people who have fallen on hard times.

The credit industry would love for you to believe that only deadbeats file bankruptcy. There's a lot of mileage in that claim—it makes ordinary people reluctant to file bankruptcy when they need to, it creates an unsympathetic attitude toward those who do file bankruptcy, and it makes it easier to get support for legislation that will make it harder for people to file bankruptcy. And maybe it's more comfortable for most of us, not to have to face up to the fact that circumstances in our economy are so desperate that 1 in 53 U.S. households had to file bankruptcy during 2005.

The truth, however uncomfortable, is that most people who file bankruptcy don't do so because they took vacations they couldn't afford and bought luxury goods with their credit cards. Most people file bankruptcy for one of three reasons—or for a combination of these reasons: divorce, job loss, and extraordinary medical expenses.

5. Once you file for bankruptcy, your creditors can't bother you anymore.

In most cases, when you file for bankruptcy protection, the court issues an "automatic stay". The automatic stay is a court order that tells your creditors that since you've filed for bankruptcy protection, they can't contact you anymore. They can't

call you, and they can't send you threatening letters. If they're garnishing your wages, they have to stop. If they were about to repossess your car, they'll have to wait to see how the bankruptcy court resolves ownership of your car.

Bankruptcy law even provides that creditors who violate the automatic stay can be required to pay damages—in some cases even punitive damages. There are exceptions in certain types of cases and for certain debts like criminal restitution, but in most cases and for most debts, the automatic stay will protect you from any creditor contact.

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