



LIFE AFTER BANKRUPTCY

BY JASON AMERINE





CASTLE LAW OFFICE

Practicing Bankruptcy and Personal Injury Law



Bankruptcy: A Fresh Start for You

Every day I have clients ask me about what life might be like after bankruptcy, and perhaps you're feeling that way, too. Sure, you want to get rid of your debt and the frustrations that come with it. But you're also probably concerned about your credit score, your private life and other aspects of your finances.

In this report, we offer answers to some of the most common concerns our clients bring to our office.

Bankruptcy can bring tremendous freedom and a chance to start over. I hope this report will help you and your loved ones feel more assured and informed as you consider bankruptcy and what it might mean for your financial stability.

If there's something we leave out or if you still have questions, please don't hesitate to call my office at (816) 842-6200. We offer every client a free consultation.

Sincerely,

A handwritten signature in black ink that reads "Jason Amerini". The signature is written in a cursive, flowing style.

Owner and Attorney-at-Law
Castle Law Office of Kansas City, P.C.

Which Chapter is Right for You?

Our attorneys have worked with thousands of bankruptcy clients, and they can determine which chapter will be better for you in your initial consultation. Our firm is skilled at handling both Chapter 7 and Chapter 13 cases, and can advise you on the best course.

Filing either chapter immediately stops collection calls, threats, wage garnishment, car repossession and house foreclosures.

Chapter 7

Chapter 7 bankruptcy allows you to get rid of debts you can't pay – like credit card bills and medical debt. This is what is known as “liquidation,” which can be misleading because you can often keep property like your home and car, depending on the exemptions available in your state.

Should you find yourself in a situation where you can no longer make your house payments, but your home is impossible to sell because you owe more than the house's value, Chapter 7 can provide relief through discharge of the mortgage debt.

If you have a vehicle you can't afford and the creditor demands payment after he has repossessed the car, Chapter 7 can provide relief from that debt. Chapter 7 also stops lawsuits against you from people trying to collect for debts you can't pay.

Chapter 13

Chapter 13 is a powerful law designed to help you through a difficult time when your income has been temporarily disrupted – like job loss or unexpected medical problems.

And if you have property you want to keep, Chapter 13 bankruptcy might be a good fit for you. For example, if you are behind several months on your mortgage payments and the bank is about to foreclose, Chapter 13 can stop the foreclosure and allow you to pay back the debt over a period of a few years instead of all at once.

Your debts can all be combined into one payment that you can afford; and you will be legally protected from creditors so that all collection calls and creditor harassment must stop.

A really good lawyer will have a great deal of sympathy for your situation and will take pains to alleviate any embarrassment you may feel about coming in for a consultation. Caring attorneys know that the problems you have are problems that people experience all over the country right now.

I talk to people about this issue all day long. It's unbelievable to see how many people have filed bankruptcy – how many of your coworkers, neighbors and friends. So many people have had financial trouble in the past 10 years that bankruptcy doesn't have the stigma that it used to have.

As I like to tell people, you may feel like you've failed at something, but who hasn't? Failing at something doesn't make you a failure. It just means you were trying to do something that was unsuccessful. You move on to the next stage of your life.

“ Really, bankruptcy is something positive, because the negative has already happened. Bankruptcy is the first step toward curing the problem you have. That's the way you should look at it, and that's the way you should explain it if you ever get questions from anyone about filing. ”

Can Bankruptcy Hurt Your Employment Prospects?

For most types of employment, bankruptcy won't hurt you at all, and here's why: There's a federal law against discrimination of people who have declared bankruptcy. It's unlawful to fire someone from their job because of it; it's unlawful to discriminate against anyone for it. That's the way the law looks at it.

Honestly, I can't tell you that there will never be any type of employment issue that comes up with bankruptcy. Certain things could happen in very rare cases.

For example, suppose you were trying to get a new job after bankruptcy in which you would be directly responsible for handling or recording money, taking in the company's funds, etc. That company might want you to be bonded (insured) because of their concerns about your financial history.

But ask yourself this: if you were hiring for that position, would you want someone who's in a lot of debt and thus has a desperate need for extra money, or someone who filed bankruptcy and thus does not have a desperate need for money? If ever caught with this question from a potential employer, you should encourage them to see it from that perspective.

Living Your Life: Many Questions

When you have a complete bankruptcy discharge, meaning your Chapter 7 has been discharged or your Chapter 13 has been paid in full, you're free to do whatever you want. There's no restriction on your credit or the things you can buy; but creditors may look at you differently and certain purchases may be more difficult.

In this section I cover some of the most common questions we hear at our office about what you can expect as a consumer after filing bankruptcy.

Will You Lose Your 401(k) or Retirement Accounts?

If you file bankruptcy, your 401(k) will be protected.

Bankruptcy exists to give you a fresh start. It's a merciful law with the aim of getting people back on their feet. So it doesn't benefit anyone if it also destroys a person's retirement. For that reason, bankruptcy doesn't hurt your 401(k) as long as the money stays where it is.

Just remember: Don't move money out of your 401(k) just because you think it's safe. Sometimes during a bankruptcy, people think those funds are protected so they'll take them out and use them for purchases. As soon as the 401(k) is converted into a regular savings account, it isn't protected anymore.

The current bankruptcy law also contains protection for your pension and retirement accounts. If you file for Chapter 7 or Chapter 13, you should be able to keep both with a few limitations.

Certain plans are considered "excluded" from the bankruptcy estate, which means you get to keep them. These type of plans don't come under control of the trustee, so technically you do not need to claim them as exempt. However, some attorneys choose to list them as exempt property.

With a few exceptions, the amount that is protected is unlimited. There are a few limitations for traditional and Roth IRAs. For those two types of accounts, the amount the bankruptcy court can't touch is limited to \$1,245,475 per person. If you have more than this amount in your combined accounts, the court can take the excess to pay back your creditors.

Additionally, employee stock purchase plans and some inherited IRAs may not qualify for an exemption, but the following plans do:

- Profit-sharing, money-purchase and defined-benefit plans
- Pension and retirement plans qualified under ERISA
- Deferred compensation plans under IRC 576
- Government retirement plans under IRC 414(d)
- Tax-deferred annuity plans under IRC 403(b)
- IRAs (SEP and SIMPLE)
- Keoghs
- 403(b)s
- 401(k)s

Will You Be Able to Get a Credit Card?

After your bankruptcy is discharged, you'll get a lot of credit card offers. Chapter 7 will take three to four months after filing, and Chapter 13 will take until the end of your reorganization plan, which is five years or less. After that, my clients tell me they typically get several offers from credit card companies offering to issue them a credit card, usually at higher interest than normal. The credit card companies justify the higher rates by saying the risk is higher for them, because bankruptcy filers have a proven history of being unable to repay debt.

Particularly after Chapter 7, most of our clients are flooded with credit card offers. Credit card companies know consumers can't file another Chapter 7 for eight years, so they have a better chance of collecting their debt from people who just filed bankruptcy.

The credit card companies make a lot of money from people in that situation, because the interest is so much higher and bankruptcy isn't an immediate option. The real issue for you will be resisting accepting those credit card offers.

Will You Be Able to Buy a House?

There are certain rules that some lenders follow. If you're seeking a government-insured loan like Fannie or Freddy, you may have to wait a few years after bankruptcy discharge to qualify – although the government-backed loans have been pretty generous lately.

Private lenders, however, might want you to wait a year or so to reestablish yourself – or in some cases, they might not. All you can do is try. People are turned down every day who have never had a bankruptcy and have good jobs. That just happens; and if it does, try the next bank, because they might be different.

Non-Qualifying Assumable Loans

If you check your Sunday newspaper's real estate listings, you'll see a lot of ads for non-qualifying assumable loans. That just means that the seller already has a loan and you assume his loan without having to qualify or have any particular type of credit. You just take over his loan and you can have his house.

It's a buyer's market right now. Because of falling values, houses aren't selling well and vendors are very anxious to move them. With a non-qualifying assumable loan, you may have to save up some money for a down payment. However, after a bankruptcy you don't have debts to repay, which should make it easier for you to save.

It might take a little more work to find the right situation for buying a house after bankruptcy – there might be a couple of things you'd have to do that you wouldn't ordinarily do – but it can certainly be done.

Special Circumstances for Chapter 13

When you're in the middle of Chapter 13 (the five-year period between filing and discharge), you've made a commitment to getting out of debt and you shouldn't be incurring any new debt at that time. However, if you need to buy a home, your lawyer can ask for court permission to do that. It will usually be granted if the money is there to do it and if there aren't any unusual changes in your circumstances.

Will You Be Able to Rent an Apartment?

There's no problem with renting an apartment after bankruptcy as long as the landlord wants to rent to you. There's certainly no reason why they can't rent to you, but you will have to go through the same qualification procedures as anyone else.

There will be plenty of landlords who don't want to rent to you because you've had a bankruptcy, claiming that you are too much of a risk. But there are also plenty of landlords who don't feel that way, so it might just take you a little time to search for one.

Millions of people have found themselves in bankruptcy. In fact, millions of bankruptcies are happening across the country, year after year. All of those people are living somewhere. It can be done – you just have to check.

In fact, attorneys usually have properties in town to which they'll refer clients because they know the landlord will rent to people who have been through bankruptcy. Ask your lawyer for recommendations if you have trouble finding a good place at first.

Special Circumstances for Chapter 13

If your Chapter 13 is still actually pending, that's something you might want to consider in advance. Some landlords are nervous about renting an apartment to you when you're in the middle of a Chapter 13, because they're afraid you'll add them to the bankruptcy.

If your lawyer is caring and helpful, he or she would be happy to write a letter to the landlord explaining how you're not going to do that. That usually satisfies them.

Will You Be Able to Buy or Rent a Car?

You'll find buying a car to be relatively simple, even after a bankruptcy.

Sure, the dealer may use your bankruptcy as an excuse to charge you a little more interest, and you might not be able to buy the exact car you want to have immediately after bankruptcy, but you can find a car.

The dealer just wants to know you have a job and are able to make the payments. If you aren't in that position, the odds are you shouldn't be buying a car anyway until you're more prepared for the financial commitment.

Renting a car is usually not a problem, either, if you have a credit card. However, if you have a Chapter 13 pending or a Chapter 7 that's just been discharged, perhaps you don't have a credit card.

A credit or sometimes debit card is usually required in advance, so you might want to consider a debit card as an alternative, since it works like cash to help you avoid overspending and is available to you even if you're not able to obtain a credit card yet. Not all car rental companies accept debit cards, but some do.

How Will This Affect Your Credit Score?

Future creditors or potential creditors can see your credit history reflected in your report as a number ranging from 450 up to a maximum of 800. People take a great deal of pride in having as high a number as possible.

If you're in a bankruptcy lawyer's office or if you're considering a bankruptcy, your credit report may not be very good to begin with. You might need to focus first on starting a new life without debt.

That said, a bankruptcy can be reported on your credit report for up to 10 years from the date you filed. Your creditors can send in a report to the various credit agencies if they want. Not all of them will, but some of them will; and it will say the debt has been discharged in Chapter 7 or Chapter 13.

So if you're in a five-year repayment plan through Chapter 13, once it is discharged, you'll still have five years in which it can legally be reported on your credit report.

There are some other things to keep in mind about your credit score, too. If you have a house or car you're paying for that's been exempted through Chapter 7 discharge, continuing to make those payments will reflect well on your credit report.

Regardless of your credit score or financial situation, banks will give you a debit card. That debit card – even though you can technically call it credit – is not approved for purchase unless you already have the money in the bank.

Particularly if you've had credit trouble in the past, that's the way you should go. It's what I do. I have access to all the credit I want, but I don't use it because I don't want to pledge my future for something I buy today.

That's essentially what credit is: you're pledging the minutes and hours and days that make up your future life in return for something you want to enjoy today.

I'd rather not do that, so I don't really want any credit. However a debit card is necessary because I can't fly on an airplane, check into a hotel, or rent a car without some type of card.

My advice to you is to make a determined effort to start over without credit if at all possible. It's possible to recover your financial stability and get in trouble again.

Castle Law Office offers all of our new bankruptcy clients access to a FREE program to help you improve your credit score.

This program contains your ultimate guide to credit reports, getting credit cards, asking for credit and more.

You'll receive:

- step-by-step lessons
- action guides
- live Q&A sessions
- a user forum
- and more!

Working Toward Financial Freedom

In the end, maybe filing bankruptcy is right for you, maybe it's not. But you should be prepared before making this type of life-changing decision, and I hope this report has helped you.

You and your family deserve the fresh start that bankruptcy can give to you. Studies show that financial stress can tax your mental reserves and take away from your ability to problem-solve. If you are constantly worrying about how to make ends meet, it may be doing you more harm than you know. You might be making irrational and risky decisions about your financial future.

If you need us, we're here to help. Call my office at any time.

816-842-6200. You'll be glad you did.