

10 Things To Know About Bankruptcy In New Jersey:

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There are many myths and mis-understandings about bankruptcy. Some of them put forth by unscrupulous credit collectors to discourage you from filing bankruptcy.

Let's start with the question: What is bankruptcy? Bankruptcy is a federal law that allows individuals opportunity to get a fresh start in life and get out from under their debts. This is done by either wiping out ("discharging") the debt, or paying it back over time ("restructuring" it). These different goals of bankruptcy are reflected in the two common types of bankruptcy, *Chapter 7* and *Chapter 13*.

Chapter 7 is a complete discharge of all debts giving the individual or married couple the ability to have a fresh start and to rebuild their credit.

Chapter 13 allows individual or married wage earners to reorganize their debt and pay some or all of it back over time (usually 5 years), often without interest, and many times without repaying all of it. This gives people a great deal of leverage with creditors by allowing them to dictate terms of repayment, and do things like cure mortgage arrears, reduce monthly car payments (in limited circumstances), and pay back debt such as credit card balances without dealing with the crushing load of the interest rates.

[Here are some of the most common misconceptions I hear everyday.](#)

1. Will I Go To Jail?

No. Although many unscrupulous debt collectors might try to make you think so, the truth is that you will not go to prison for not paying your debts or for filing bankruptcy. There is no debtor's prison in the United States, such prisons having been abolished in the 19th century and having been explicitly outlawed in state constitutions. The culture of "good credit" may make it seem as if a severe penalty will surely happen if you file for bankruptcy, but you will not go to debtor's prison.

2. Will I Be Able To Get The Bill Collectors To Stop Calling Me?

Yes. One of the major benefits of filing for Chapter 7 is that a stay (stop) is put into effect for many actions that collection agencies may be taking against you such as contacting you by phone and mail, suing you in court, and other collection actions. Foreclosures, Sheriff sales, bank levies, and wage garnishments, and sometimes imminent or even very recent car repossessions will all be stopped by filing for bankruptcy.

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When your bankruptcy is filed, the court will notify all of your creditors electronically and by mail. If a creditor or collector continues to engage in collection efforts once they have been informed of the bankruptcy filing, it may be liable for court stations in attorney's fees as a result.

3. Will They Take My Car?

Probably not. If you own out-right a highly valuable car, such as a collector's car of some sort, then this is an asset that you may have to sell as part of the bankruptcy. However, if you have a car that you are making payments on, then you'll probably be able to keep that car, as long as you continue to make the payments. If you are leasing a car, it has no value as an asset, so again you will be able to keep it as long as you continue to make the monthly payments. Some car lenders ask you to sign a reaffirmation agreement in order to keep the car after bankruptcy.

4. Will They Take My House?

This depends on state laws and other factors. Some states have what are called homestead exemptions, which means that homeowners are given specific protections for their homes in a bankruptcy. But, New Jersey does not have such an exemption. If you have equity in your home, you will have to give that special attention. One possibility is that you utilize chapter 13 rather than chapter 7. If you have zero or negative equity and you do not want to keep the home, a chapter 7 will relive you of the obligation to repay the debt and go on living in the home until the lender sells the home at a Sheriff sale (read more about this in our Free Report: [10 Things To Know About Foreclosure](#)). There are a number of different ways to approach this. Careful planning will help make the correct decision.

5. Will I Ever Be Able To Get Credit Again?

Yes. You will be surprised how quickly you will be able to rebuild your credit and get credit after bankruptcy. Using some very simple strategies to rebuild your credit, you may have access to credit fairly soon after bankruptcy: usually within 1½ to 2 years if you are diligent about rebuilding your credit.

6. Will My Credit Be Ruined?

Given the financial trouble that leads to deciding to file for bankruptcy, your credit score is likely to be fairly low going into bankruptcy, so this is not a huge consideration. But, there are rumors out there about bankruptcy, such as that you cannot get credit for 10 years after bankruptcy, that are simply not true. The

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reason for this is that, while some loans, like mortgages, will not be available for 2 to 3 years after the bankruptcy, your credit score will begin to improve given that some of the delinquencies that you have had will no longer be adding monthly negative marks your credit history. And, while some of the first loans and credit that you get may have higher interest rates, using them judiciously will help to build your credit score quickly. Also, the use of a secured credit card will help you rebuild your credit without other adverse effects.

7. How Do I Rebuild My Credit After Bankruptcy?

When you have successfully filed for bankruptcy, unscrupulous lenders will no-doubt send you numerous offers for low-balance cards with high activation and annual membership fees that would put you near the credit limit before you have even used the card, supposedly to help you “rebuild your credit.” Mainly, they are playing on your fear, and desire to get credit, so that they can earn a profit at your expense. You should avoid using these lenders, even if you are eager to begin rebuilding your credit score. Choose your credit accounts with care, from among the reputable lenders who are willing to give you a chance to reestablish your credit after bankruptcy.

The most prudent method, is to use a secured credit card that you get from the same local bank where you have your checking account. The secured credit account works by you depositing a small sum of money usually, a few hundred dollars, into a savings account at your local bank. The bank will then issue you a credit card (not a debit card) and the amount in your savings account will be the credit limit and will also serve to guarantee your payment of the balance. The trick here, is to use the card regularly for all of your weekly expenses such as gas, coffee, and groceries, and then, of course, pay the bill promptly before it's due. This will result in frequent positive reports to be applied to your credit report which will quickly outweigh the negative of the bankruptcy and improve your score. After bankruptcy, it is a good idea to start tracking your accounts and your credit score through well-regarded on-line sites such as CreditKarma.com and Mint.com.

8. Will I Be Able To Rent An Apartment?

Renting a new apartment right after a bankruptcy is often possible. There are several strategies you can use to make the attempt to rent an apartment more successful. Among these are taking the apartment for a short lease period, offering a higher than standard deposit, and renting a privately owned apartment rather than a corporate-owned one. Private owners often do not check credit reports before renting. So the answer is yes, you will be able to rent after bankruptcy and the farther you are from bankruptcy the easier it will get.

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9. Will My Employer Find Out About This?

In most instances, unless your employer is a creditor, they will not find out about your bankruptcy. However, most employers pull credit reports for potential hires, if you leave your job and pursue another, your new employer will probably know that you filed for bankruptcy.

Federal bankruptcy laws prohibit discrimination or retribution based on a debtor filing for protection under the bankruptcy laws. It is illegal for your employer to fail to promote you, fail to hire you, or fire you if you file bankruptcy. That being said, some sneaky employers might rely on another excuse to take some action against you but it is illegal.

10. Does My Wife/Husband Have To File For Bankruptcy Too?

Not necessarily. In a few cases where only one spouse has debts, or only one spouse has debts that are not dischargeable, or, if one spouse has good credit and you want to preserve that credit for future purchases such as a car, it might be the best choice to have only one spouse file. However, you must be careful about filing separately if, as a couple, you owned joint debt and property.

Next Steps:

The first thing you should do is to get a copy of your credit report at FreeCreditReport.com or CreditKarma.com. This will help you understand your situation better and help you discuss your case with any attorney when you are ready.

After reading this Report, you may still have more questions. If you do, you may find additional information on our website at www.toddmurphy.com.

If you want to discuss your case with me personally, call or visit our website to schedule a free 30 minute telephone consultation.

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Or, call **908-867-0024** to schedule an appointment with one of our receptionists.