Chapter 7 Bankruptcy

Chapter 7 of the code releases you from the responsibility of repaying most of your unsecured debts after repaying your creditors to the extent you have available assets. Certain assets are protected from being sold. You can only file for a Chapter 7 if you meet specific income requirements.

To qualify for Chapter 7 filing, you must earn less than the Florida state median income each month. You also must take a “means test” that will require a detailed record of what you owe and what you own.

Chapter 13 Bankruptcy

Chapter 13 is known as reorganization bankruptcy. Instead of selling your assets to pay your debt, the court proposes a plan to reorganize your debts into a specific repayment plan. If you have a regular income, this plan shows you how to pay off your debt within three to five years. If you successfully complete this plan, you may be able to keep your assets and have unsecured debts discharged.

An unsecured debt is one that does not include property, such as credit card or medical bills, personal loans, or rent and utilities.

A secured debt is one where the promise to pay the debt is “secured” by property, such as a house or a car, and the property could be taken by the bank if that debt is not paid.

Filing for Bankruptcy

Chapter 7

A typical Chapter 7 bankruptcy case is fairly basic. You will spend most of your time completing forms. These forms will require you to list your debts, assets, financial transactions, and other information. Once you’ve filed your paperwork with the court, the bankruptcy trustee takes over your case. After you attend a brief court

hearing (the meeting of the trustee and any creditors) and meet a few other requirements, you'll receive your discharge and your case will be closed, usually in four to six months after the date you file.

Steps in the Bankruptcy Process

1. **Get mandatory credit counseling.** You must receive credit counseling during the six-month period prior to filing for Chapter 7 bankruptcy.
2. **File your petition and other forms.** As mentioned above, to file your bankruptcy, you must submit several forms to the court. The forms include the bankruptcy petition (the request to file bankruptcy), as well as forms that list your income and expenses to show that you qualify for a Chapter 7 bankruptcy.
3. **The trustee takes over.** After you file your paperwork, the court will appoint a trustee to handle your bankruptcy case. The trustee's job is to review your paperwork and take your nonexempt property you may own to distribute to your creditors to help pay off debt. You'll also need to submit a copy of your most recent tax return to the trustee.
4. **The meeting of creditors.** You'll receive a notice from the court, telling you when your meeting of creditors (also called a "341 meeting," named after its place in the bankruptcy code) will be held. Typically, this is a short meeting. Under oath, you will answer questions about your finances asked by the trustee and any creditors who show up (often, creditors do not attend the meeting).
5. **Your eligibility to file for Chapter 7 is confirmed.** At this point, the trustee has reviewed all your information, and the court decides if you are eligible for Chapter 7 protection. If the court denies eligibility, you still may have the option to file for Chapter 13 bankruptcy.
6. **Nonexempt property is handled.** Nonexempt property is property that the debtor may need to give up in order to pay off a debt. If you have any nonexempt property, the trustee will decide if it's worth selling. You may be able to negotiate with the trustee to keep certain nonexempt property if you can come up with enough cash, or if you are willing to give up exempt property instead.
7. **Secured debts are handled.** If you have secured debts, such as a mortgage, there are two choices. You must give back the property (redeem it by paying the creditor what it's worth), or reaffirm the debt (agree that you will still owe on it after your bankruptcy case is over). If you reaffirm any debts and you are not represented by a lawyer, you will have to attend a reaffirmation hearing

before the judge.

8. **Take a financial management course.** After you file for bankruptcy, and before you receive your discharge from the court, you need to complete a debtor's education course.
9. **You receive your discharge.** Within three to six months after you file, you'll receive your bankruptcy discharge in the mail.
10. **Case closed.** A few days or weeks after your discharge is granted, your bankruptcy case will officially be closed. You no longer will be liable to most or all of your creditors, and you can move on with your life.

Chapter 13

The steps for filing a Chapter 13 bankruptcy are similar to those of Chapter 7. The main differences are that the trustee does not take any of your property, and you will set up a payment plan. It is within this payment plan that your assets are dealt with.

Things to Consider

There are several debts that cannot be included in bankruptcy, such as:

- Most student loans
- Most federal and state taxes
- Child Support
- Alimony
- Most liens

Resources

If you are ready to file for bankruptcy but are having difficulty finding a lawyer or your income is too high to qualify for legal aid, visit upsolve.org to learn more about their online tools that can lead you through the self-filing process. The website of your local bankruptcy court may also have useful and free self-help materials.

Their online tools are free. No credit card is needed to use it, but you will have to create an account that is connected to your email address.

The Upsolve website also has an extensive online learning center that may help answer some of your bankruptcy questions and determine whether or not it is right

for you and your family.