

WHAT BANKRUPTCY CAN AND CANNOT DO

What Bankruptcy Can Do:

If you are facing serious debt problems, bankruptcy offers a powerful remedy. Here are some of the things filing for bankruptcy can do:

Wipe out credit card debt, medical debt, and other unsecured debts. Bankruptcy is very good at wiping out credit card, and medical debt. This is precisely the kind of debt that bankruptcy is designed to eliminate. Besides credit card debt, and medical debt, you may have other unsecured debts (broken leases, or old phone contracts, etc.), and bankruptcy can wipe those out as well.

Stop creditor harassment, collection activities, garnishments, repossessions and foreclosures. If the creditor is about to repossess your vehicle or foreclose your mortgage -- bankruptcy can stop this from happening. Bankruptcy allows you to (1) set up a new and affordable repayment plan where you can pay for a house or vehicle, or (2) surrender your house, vehicle, or other asset without penalty.

Eliminate certain kinds of liens. Lien avoidance is a powerful and important tool available in bankruptcy. If you have liens recorded against your property, you may be able to get rid of them when you file bankruptcy.

What Bankruptcy Cannot Do:

Here's what bankruptcy cannot do for you:

Eliminate child support and alimony obligations. Child support and alimony obligations survive bankruptcy – you will continue to owe these debts in full, just as if you had never filed for bankruptcy. If you file a Chapter 13 debt repayment plan, you must make sure the ongoing support payments are made along with any back child support that is owed.

Wipe out student loans, except in very limited circumstances. Student loans can be discharged in bankruptcy only if you can show that repaying the loan would cause you "undue hardship," a very tough standard to meet. You must be able to show not only that you cannot afford to pay your loans now, but also that you have very little likelihood of being able to pay your loans in the future.

Eliminate most tax debts. Eliminating tax debt in bankruptcy is not easy, but it is sometimes possible for older debts for unpaid income taxes. Often in a Chapter 13 debt repayment plan, tax debts can be repaid without any future penalties or interest accruing.

Eliminate other non-dischargeable debts. The following debts are not dischargeable under either Chapter 7 or Chapter 13 bankruptcy:

- certain taxes
- debts for spousal or child support or alimony
- debts to government agencies for fines and penalties



- student loans (with a few rare exceptions)
- debts for personal injury caused by the debtor's operation of a motor vehicle while intoxicated
- any debt incurred as a result of fraud

What Only Chapter 13 Bankruptcy Can Do:

Stop a mortgage foreclosure. Filing for Chapter 13 bankruptcy will stop a foreclosure and force the lender to accept a plan where you make up the missed payments over time while staying current on your regular monthly payments. To make this plan work, you must be able to demonstrate that you will have enough income in the future to support such a repayment plan.

Stop the repossession of a vehicle. Filing for Chapter 13 bankruptcy will stop the repossession of a vehicle and force the lender to accept a plan where you make up the missed payments over time while staying current on your regular monthly vehicle payments. To make this plan work, you must be able to demonstrate that you will have enough income in the future to support such a repayment plan.

Allow you to keep non-exempt property. You don't have to give up any property in Chapter 13 because you use your income to fund your repayment plan.

"Cram down" secured debts that are worth more than the property that secures them. Chapter 13 can be used to reduce a debt to the replacement value of personal property securing the debt only if debtor has owned the personal property for more than 910 days. Example: If you owe \$10,000 on a car loan and the car is worth only \$6,000, you can propose a plan that pays the creditor \$6,000 and have the rest of the loan (\$4,000) discharged/eliminated.

