

# Chapter 13 Bankruptcy

## Payment Plan Bankruptcy

### What is Chapter 13 bankruptcy?

It is a payment plan OK'd by the bankruptcy court. You and your lawyer write the payment plan. It lets you pay all or part of your debts over time. It protects you from being sued and having your belongings taken.

### How is Chapter 13 different from Chapter 7 bankruptcy?

A Chapter 7 or "full bankruptcy" lets you get rid of (or discharge) debts without paying them. See our booklet Chapter 7 Bankruptcy to find out more.

A Chapter 13 plan lets you pay all or part of your debts over time. You make payments you can afford.

### Is Chapter 7 or Chapter 13 better?

Your lawyer will tell you what kind of bankruptcy is best for you. In some cases, only a Chapter 7 will work. But in many cases, a Chapter 13 is better. In some cases, you may have to file Chapter 13 instead of Chapter 7.

Do you have property that can be taken away (repossessed), if you don't pay? Then Chapter 13 usually works better. In most cases, Chapter 13 lets you keep what you bought while you pay for it. It lets you pay your debts at a rate you can afford. In some cases, you can have lower payments or pay less than the full debt.

With a Chapter 13 bankruptcy you make one payment each pay period or each month. This way you pay all or part of your debts. While you pay, your creditors can't take your property or your pay check.

### Who can file a Chapter 13 Plan?

Anyone with enough regular income to pay basic

living expenses plus Chapter 13 payments. Your income doesn't have to come from a job.

Basic living expenses are rent, food, lights, heating and cooling, insurance, clothing and transportation. Try adding up these costs. Don't count your monthly payments to creditors. See if you would have money left each month for a Chapter 13 Plan.



You need a lawyer to tell you if Chapter 13 will work for you. Most lawyers won't make you pay their fee up front. The lawyer's fee and court filing fee will be in your Chapter 13 payments.

### What happens when you file a Chapter 13?

You must give your lawyer a list of **ALL** your debts. You must also give your lawyer a list of everything you own. You must tell your lawyer everything about your money situation. Your lawyer will tell you about the two kinds of bankruptcy, Chapter 7 and Chapter 13.

Before you file a Chapter 13, you and your lawyer work out a payment plan. The lawyer writes your Chapter 13 papers (the petition and other papers).

You read and sign the bankruptcy papers. You must swear under oath that as far as you know the information is correct.

Your lawyer files the papers with the court.

The court tells everyone listed in your papers that you have filed a Chapter 13. The Court also tells them when to come to the creditors' meeting.

You and your lawyer must go to the creditors' meeting. There, the Chapter 13 trustee will ask you

questions. This is to make sure your papers are complete and correct. Your creditors may also ask about your debts and what you own.

If the court OKs your payment plan, you make payments to the Trustee. The Trustee makes sure the money goes to your creditors each month. Usually the payments are taken out of your pay check and sent to the Trustee.

You must make all your Chapter 13 payments in full and on time. If you miss a payment, the Trustee may drop (dismiss) your case. If that happens, the court can't protect your property from creditors.



### How often can I file a Chapter 13?

After you file a Chapter 13, you can't file another one for 2 years. If you file a Chapter 7, you can't file a Chapter 13 for 4 years. Talk to a lawyer if you need to get a Chapter 13 sooner. There will be problems to work out.

### How big would my Chapter 13 payments be?

It depends on:

1. How much you owe
2. How long the Plan will last, and
3. How much you can pay each month.

You and your lawyer together come up with an amount that works for you.

### Will I lose my home if I file Chapter 13?

Not if your Chapter 13 Plan includes house payments and any back payments. Many people file Chapter 13 to keep their homes.



### What if I'm behind on my rent?

You may be able to stop an eviction with a Chapter 13. It works very well if you live in Section 8 or public housing.

You pay your back rent in your Chapter 13 payments. This may work even if you broke the lease. **If you are being evicted**, tell your lawyer right away.

### Can I keep what I put up as collateral (security) on a loan?

In most cases, yes. Ask your lawyer how it will work in your case.

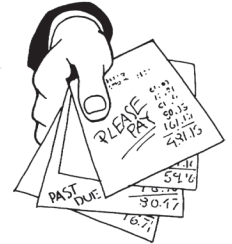
### Can I be sued after filing a Chapter 13?

While you are making payments, creditors can't sue you or take (garnish) your paycheck. They can't take your property or your home without the Court's OK.

What about when you finish all of your plan payments? You should not be sued by anyone you paid through the plan. This is true except for a few creditors. Your lawyer will tell you about those.

### Can I list debts in my Chapter 13 that I have already been sued on?

Yes, you must list **ALL** your debts. You can't pick just the debts you want to pay.



### Should my husband or wife also file Chapter 13?

Not always. Your lawyer will tell you what to do on this.

### Is Chapter 13 the best way to stop bill collectors from bothering me?

Not always. There are other ways to stop bill collectors who bother you. See our booklet *Bill Collectors Bugging You?*.

You may be able to set up a payment plan through a credit counseling company. Creditors don't have to agree to a payment plan from a counseling agency. But many creditors will agree. You may be able to stop or lower interest while you make payments.

A "Slow Pay Motion" can help if you are sued over just one or two debts. This lets you make small payments and stops garnishment of your paycheck. See our booklet on *How to Keep Your Paycheck from Being Garnished*. Your lawyer may tell you about other ways to handle your bill problems.

## What if my car was repossessed?

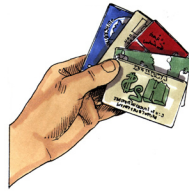
If they haven't sold it yet, a Chapter 13 Plan may help get it back. But, you must have enough income to pay for your car in your Chapter 13 Plan. And you will have to keep insurance on the car. If you don't, you may have to give up the car.

## What happens to my credit rating after I file a Chapter 13?

That depends. If you need a Chapter 13, you probably have a poor credit rating already. When you finish your Chapter 13 plan, tell the credit bureau. Ask that your credit report show that you paid off your Chapter 13 plan. What if you want to go into new debts while you are in Chapter 13? The court has to OK it first.

## Can I get credit after I finish my Chapter 13 Plan?

Maybe. A bankruptcy doesn't make your credit look better. Some creditors will say you are a bad risk and won't give you credit. Others will be glad to give you credit but will charge you high interest.



You may want to ask for our booklets on:

- Bill collectors
- Garnishment, and
- Protecting your property after you have been sued.

## Tennessee Legal Aid/ Legal Services Offices

**Legal Aid Society**  
of Middle Tennessee and the Cumberland  
**1-800-238-1443**

Offices in Clarksville, Columbia, Cookeville,  
Gallatin, Murfreesboro, Nashville, Oak Ridge, and  
Tullahoma

**West Tennessee Legal Services** Jack-  
son Office 1-800-372-8346  
Dyersburg Office (731) 285-8181  
Huntingdon Office (731) 986-8975  
Selmer Office (731) 645-7961

**Memphis Area Legal Services**  
Memphis Office 1-888-207-6386  
Covington Office (901) 476 -1808

**Legal Aid of East Tennessee**  
Knoxville Office (865) 637-0484  
Johnson City Office 1-800-821-1312  
Kingsport Office 1-800-821-1309  
Chattanooga Office 1-800-572-7457  
Cleveland Office 1-800-445-3219

NOTE: This information cannot take the place of advice from a lawyer.  
Each case is different and needs individual legal advice.