

# In Debt?

Presented by:



Advocates for Basic  
Legal Equality, Inc.



Legal Aid of  
Western Ohio, Inc.®

**Together, we do the community justice.**

## HOW CAN SOMEONE COLLECT A DEBT FROM YOU?

People can collect money from you only if they follow the law. The law permits people to collect a debt from you in several ways, including garnishing (withholding) wages or reclaiming property related to the debt.

### Can your wages be garnished?

If you are working, a creditor can ask the court to order part of your wages withheld, or garnished, each pay period to pay your debt. There are limits on how this works:

- Your wages can only be garnished if you have been sued and the creditor has won in court\*.
- Creditors may be able to take up to 25 percent of your after-tax wages.
- You must receive a notice before your wages are garnished.

### Can someone repossess your things?

**Yes, in some cases.** People sometimes put up something they own or are buying as “collateral” or “security” for a loan. For example, when you borrow money to buy a car, the car you are buying is often collateral for the loan and the creditor can repossess it if you do not make payments. People may put up household goods, such as furniture, as collateral for loans from finance companies, which means those household goods can be repossessed if they do not pay back the loan.

Creditors must act peacefully when they repossess property. They cannot break into your garage or your house. You do not have to let creditors into your house or on your property if they are trying to repossess property related to a debt. If you ask them to leave, they must go.

## Can you lose your house?

After a creditor sues you and the court orders that you owe a certain amount, the creditor can put a “lien” on the house you own. That means the creditor gets the right to foreclose on the house to get the money you owe. Or, if you sell the house, the creditor can get part of the sale price.

## Does the law provide any protection from creditors?

**Yes**, a creditor cannot take money from your welfare, social security, unemployment compensation, or veterans administration check\*.

The law also says that some property is so important to people it cannot be taken by your creditor (unless you put it up for collateral or security). This is called exempt property. The most important kinds of exempt property include:

- Clothing;
- Most household goods, furniture and appliances;
- A car, if it is worth less than \$3,675 after you subtract what you owe on it.

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\* There are exceptions to these rules for certain federal debts, such as student loans. Call Legal Aid Line for more information.

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## Can creditors harass you?

**No**. There are federal and state laws that prohibit creditor harassment. These laws restrict the actions that collection agencies, attorneys, and creditors can take to collect bills. Your attorney can help explain what can and cannot be done to collect a bill from you.

For example, a debt collector cannot use obscene or profane language, or threaten or use violence against a person or property.

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## WHAT IS BANKRUPTCY?

“**Ordinary (or Chapter 7) bankruptcy**” is a proceeding under the federal laws in which a person files papers in federal court listing everything she or he owns and all of his or her debts. The bankruptcy trustee then sells all of the person’s property that is not exempt, and pays off the creditors. After this, the debts are forgiven, no matter how much the person still owes.

In a “**Chapter 13 bankruptcy**” (or wage earners plan), a person files papers in federal court listing all of his or her debts. He or she then agrees to a plan to make payments on the debts for three to five years. If the court approves the plan, the person does not have to pay the debts in full. After the three to five years are over, any remaining debts are forgiven. To be eligible for this kind of bankruptcy you must have regular income such as wages or a monthly pension.

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### Can you get rid of all of your debts?

**Not all of them.** For example, a bankruptcy will generally not get rid of debts for child support, spousal support, student loans, DUI convictions, government debts, debts that were fraudulently incurred, or some taxes. Also, if the state has taken your driver’s license because you owe someone money because of an accident that happened while you were drinking, the court will not forgive that debt.

### Does bankruptcy hurt your credit rating?

**Bankruptcy does not always make it impossible to get credit, but it usually makes it harder.** The fact that you have filed bankruptcy will stay on your credit record up to 10 years. If you expect to need credit in the next 10 years for such things as a car, house, furniture or appliances, you may have to rebuild your credit record from scratch or else deal with merchants who charge higher interest rates and are very harsh when payments are returned.

### How often can you file for bankruptcy?

A person can file for “ordinary bankruptcy” once every eight years. A “Chapter 13 bankruptcy” can be filed as often as necessary if at least 70% of the debts are paid off in the previous case.

**What is the cost to file bankruptcy?**

The filing fee is approximately \$335 for a Chapter 7 bankruptcy and slightly less for a Chapter 13, whether you file as an individual or together with your spouse. In addition to the filing fee, you will be responsible for paying any attorney fees.

**What if I can't afford the filing fee?**

If you are unable to pay the entire filing fee, the court may permit you to start the case with a smaller deposit and your promise to pay the rest of the fee in installments. If this happens, the bankruptcy will not be final until the entire fee is paid. In some cases, the filing fee can be waived.

**Can a husband and wife file together?**

**Yes, a joint bankruptcy petition can be filed.** It is a good idea to file a joint petition if your spouse also owes the debts you owe.

**WHEN IS BANKRUPTCY A GOOD IDEA?**

Bankruptcy may be a good idea for you if:

- Your debts are more than \$10,000 and are too large for you to pay off in a reasonable time; and you have wages that are being garnished;
- Liens are being put on your home;
- Someone is trying to repossess your household goods or car;
- The state is threatening to take away your driver's license because you owe money because of a car accident.

**WHEN IS BANKRUPTCY NOT A GOOD IDEA?**

Bankruptcy is usually not a good idea if:

- You are not working and you don't have anything that can be repossessed;
- Your debts are less than \$10,000;
- You expect to have new debts in the near future, such as medical bills;
- You expect to receive new property or money within the next six months because of an inheritance, life insurance, divorce, or a tax refund.

## **Is it okay to wait and see if you need bankruptcy later?**

**Yes.** Many people who are unemployed wait until they go back to work before considering bankruptcy. The best time to file for bankruptcy depends on each person's situation.

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## **How does filing bankruptcy affect lawsuits, garnishment orders, or attachments that have already been filed against you?**

The filing of a bankruptcy petition will automatically stop most lawsuits and collection attempts against you.

A few days after your bankruptcy papers are filed, the court will mail a notice to all of your creditors, ordering them to stop all collection actions against you.

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## **Will you have to go to a hearing?**

**Yes, at least once.** Approximately one month after your petition is filed, you will be required to attend a "Meeting of Creditors." At this meeting, you may be asked questions about the petition that you filed. Creditors may appear to ask questions as well.

## **Will you lose all of your property if you file bankruptcy?**

Certain property is exempt from bankruptcy, and you will not be required to give this property to the court to pay off your creditors. Exempt property includes certain limited amounts of equity (ownership interest) in your house, equity in a car, clothing and bedding, household items such as a refrigerator and stove, other household furnishings, and a small amount in cash or savings. Your attorney can tell you the amounts that apply to your situation and if any specific property is exempt.

## **Can your utility company refuse to serve you if you discharge their bill?**

No, but they can ask that you pay them a deposit or other security to ensure payment for future services.

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## ALTERNATIVES TO BANKRUPTCY

Many people choose other ways to deal with debt. For example, they may set up a trusteeship or get help from a consumer credit counseling service. The National Foundation for Credit Counseling and the Association of Independent Consumer Credit Counseling Agencies recommend having credit counseling agencies disclose all fees and services.

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### What is a trusteeship?

This is a plan to pay your creditors that is operated by the Clerk of the Municipal Court in the city where you live. You must have a source of income subject to garnishment, such as wages.

There is a small one-time charge for setting up the trusteeship, and each payday you give part of your check to the court. You may pay the court up to 25 percent of your monthly wages. The court pays this money to your creditors. This payment is usually smaller than making payments to many different creditors. (Secured creditors, or creditors who hold title to an asset of his debtor, do not have to participate in a trusteeship.) As long as you make scheduled payments to the trusteeship, your wages cannot be garnished.

### What is consumer credit counseling?

This is a voluntary plan in which a counselor will help you make a budget and pay your bills from an amount you agree to set aside each month. This type of plan requires that your creditors agree ahead of time to the plan. Some communities have these services available free of charge.

Contact the National Foundation for Credit Counseling ([www.debtadvice.org](http://www.debtadvice.org), 1.800.388.2227 toll-free) or the Association of Independent Consumer Credit Counseling Agencies ([www.aiccca.org](http://www.aiccca.org), 1.866.703.8787 toll-free).

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## HOW TO APPLY FOR LEGAL HELP

Applying for legal help begins with Legal Aid Line. Legal Aid Line provides FREE legal information and referrals to eligible, low-income residents of northwest and west central Ohio. All applicants must meet income guidelines to receive services.



**Toll-free**  
**(888) 534-1432**

**Residents of Lucas County**  
**(419) 724-0460**



**Apply Online**  
**[www.LegalAidLine.org](http://www.LegalAidLine.org)**

Legal Aid Line is a project of Legal Aid of Western Ohio, Inc. (LAWO) in collaboration with Advocates for Basic Legal Equality, Inc. (ABLE).



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