

United States Bankruptcy Court for the District of Oregon

Helpful Information for Filing Bankruptcy Without an Attorney

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This document is available on the Court's website: www.orb.uscourts.gov.

Before You File

Overview

Bankruptcy is a legal procedure for dealing with debt problems of individuals and businesses. Specifically, it involves the filing of a case under one of the chapters of Title 11 of the United States Code (the [Bankruptcy Code](#)).

Note: An explanation of the terms used in bankruptcy is found [below](#).

The two most common types of bankruptcy are Chapter 7 and Chapter 13.

In Chapter 7, your assets which are not [exempt](#) are turned over to a bankruptcy trustee (sometimes called “case trustee”), who then sells the assets, and uses the proceeds to pay all or a part of creditors’ claims. In exchange for turning over non-exempt assets, you are entitled to eliminate ([discharge](#)) most debts.

In Chapter 13, you make payments to a bankruptcy trustee over a three-to-five year period, depending on the type of debts you have, your assets, and your income and expenses. The trustee then distributes the funds to your creditors pursuant to your Chapter 13 Plan. Chapter 13 is quite complicated, and most people filing Chapter 13 cases without an attorney do not successfully complete them. You are therefore strongly encouraged to hire an attorney if you decide to file a Chapter 13 case. Many attorneys will allow you to pay a majority of the attorney fees as part of your Chapter 13 Plan.

For further information, the Administrative Office for the United States Courts has published a booklet entitled [Bankruptcy Basics](#) which provides detailed information about each type of bankruptcy filing. The Administrative Office also has a section on its website entitled [Filing for Bankruptcy Without an Attorney](#), and has produced a number of [online videos](#) outlining various aspects of bankruptcy cases. Although these resources are not intended as legal advice, they can give you a broad overview of how bankruptcy works as you decide whether or not filing for bankruptcy is warranted given your financial situation.

Deciding Whether to File for Bankruptcy

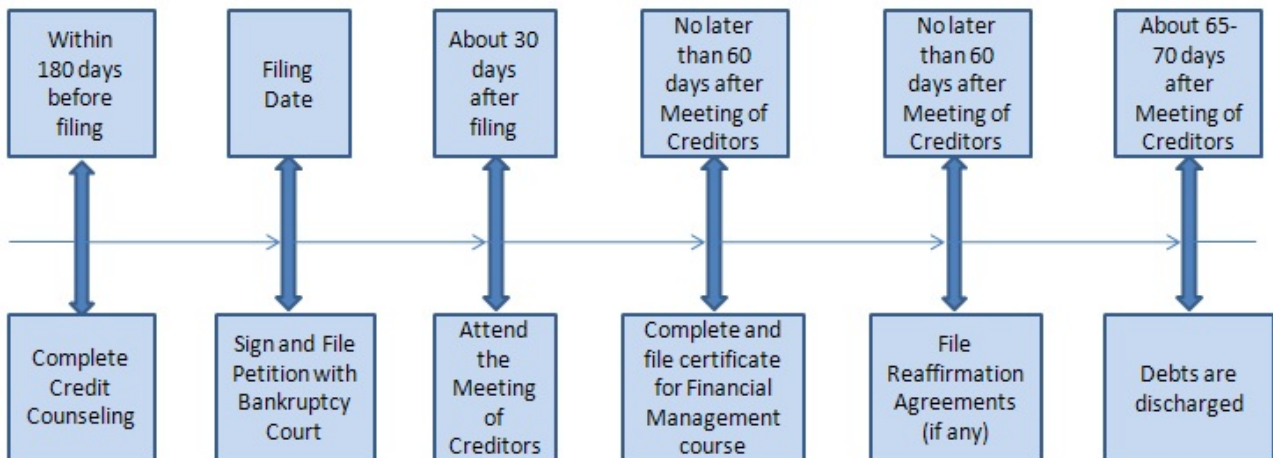
The decision to file for bankruptcy is a serious matter, and should be made only after careful consideration. Depending on your financial condition and the reasons for filing, the consequences of filing for bankruptcy protection may outweigh the benefits. The timing of the filing may be very important, and you should consider the following before filing for bankruptcy:

- There may be a filing fee required to file a bankruptcy petition. Please click [here](#) for a list of the fees associated with filing a bankruptcy.

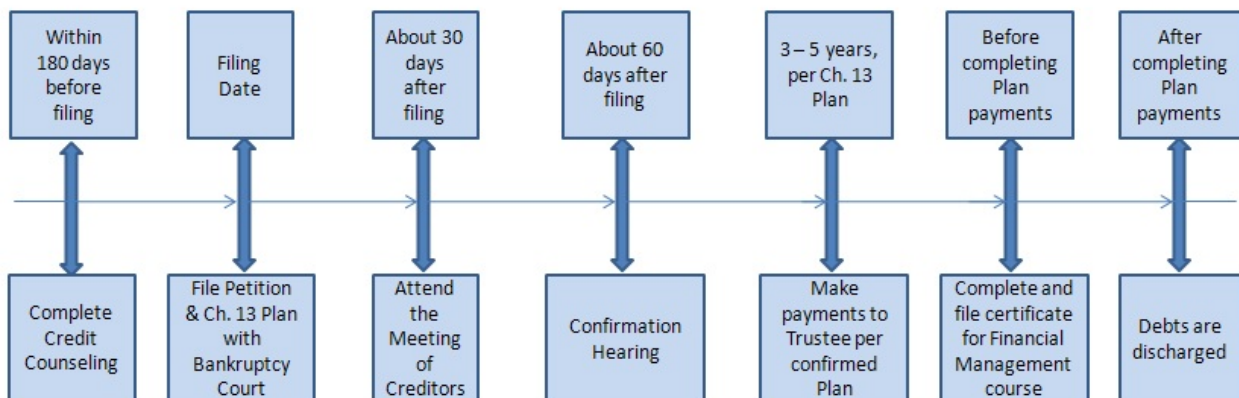
- You may lose property, belongings, and possessions that are not “exempt” under the law. See [below](#) for a discussion of exemptions in bankruptcy.
- Your right to retain state and federal tax refunds may become part of your estate if you file bankruptcy before you receive the refunds. As an example, if you file bankruptcy in October 2010, the bankruptcy trustee may be entitled to that portion of your state and federal tax refunds that you accrued up to the date you filed your bankruptcy, even though you may not receive the refunds for four or five months. Similarly, if you file bankruptcy after January 1, 2011 but before you either file your tax returns or receive any refunds, the trustee may be entitled to 100% of your tax refunds for 2010.
- Not all debts can be discharged in bankruptcy. See the discussion [below](#) concerning which debts can be discharged in bankruptcy.
- In some instances, transfers of property and/or payments made to (1) general creditors within ninety days prior to the filing of a bankruptcy petition, and/or (2) relatives, friends, or business associates prior to the filing of a bankruptcy petition, may be recovered by the bankruptcy trustee.
- Generally, a bankruptcy covers debts incurred prior to the date of filing of the bankruptcy case. If you incur additional debts after you file, they will not be discharged, and your ability to obtain relief in another bankruptcy case may be limited. For example, if you file bankruptcy, and a month later you are injured and incur a substantial amount of uninsured medical bills, those bills will not be discharged in your bankruptcy filing.
- A utility company currently providing service may terminate services if you do not pay a reasonable security deposit or provide other adequate assurance of payment within 20 days of the filing of the bankruptcy petition.
- Your Chapter 7 case could be dismissed or you could be required to proceed under Chapter 13 if your income is above the [state median](#) and you could repay your debts. See the discussion [below](#) regarding income/expenses (means testing).
- A bankruptcy filing can remain on your credit report for ten years, which may make it harder to obtain credit in the future.
- If you are “judgment proof,” you may want to consider not filing for bankruptcy as it will not provide any additional protection for your property. Being “judgment proof” means that all of your property, belongings, and possessions are [exempt](#), and that you have no income which can be garnished.

- Filing for bankruptcy will require you to complete a wide variety of documents, and will also require you to provide documentation regarding your finances. Review the checklist [below](#) to make sure that you have everything that you need.

Time Line for Typical Chapter 7 Case



Time Line for Typical Chapter 13 Case



Filing for Bankruptcy

Legal Advice

It is strongly recommended that anyone considering filing bankruptcy consult with an experienced bankruptcy attorney. Many attorneys will provide you with a free initial consultation. When you file without an attorney, you are in essence acting as your own attorney. Keep in mind that the Bankruptcy Court, the U.S. Trustee, and case trustees are all forbidden by federal law from giving you legal advice. Legal advice includes the following:

- Advising you whether or not to file a bankruptcy petition
- Advising you which chapter to file under if you choose to file
- Advising you whether your debts, including taxes, will be discharged
- Advising you whether or not you will be able to retain your home, car, or other property after you file
- Advising you of the tax consequences of filing a bankruptcy case
- Advising you whether you should continue to pay a creditor or enter into a reaffirmation agreement with a creditor
- Advising you on how to properly list property, debts, and exemptions on your bankruptcy documents
- Advising you on the best procedure to accomplish a particular goal
- Explaining the meaning of a particular law or rule
- Explaining the result of taking or not taking an action in a case
- Helping you complete forms
- Telling you in which state to file your case
- Explaining who should receive proper notice or service
- Explaining bankruptcy procedures and rights

If you cannot afford an attorney, there are options for free or lower cost assistance:

- The Oregon State Bar has a [Lawyer Referral Service](http://www.oregonstatebar.org/public/legalinfo.html) which will direct you to an attorney who has agreed to provide limited consultation at reduced rates. Call (503) 620-0222 or toll-free in Oregon at (800) 452-7636. The Bar also offers Legal Information Topics, provided as a public service. Visit online at <http://www.oregonstatebar.org/public/legalinfo.html>.
- The **Legal Aid Services of Oregon** <http://lasoregon.org/services/> is a statewide organization that provides access to legal help to low-income clients. **LASO** has field offices in Albany, Bend, Klamath Falls, Newport, Pendleton, Portland, Salem and Roseburg. Not all offices help with all issues. LASO sponsors an informational bankruptcy clinic for residents of the counties listed below. Those who meet Legal Aid's income guidelines may also be able to have a volunteer lawyer represent them for free. For more information, call:

- (503) 244-4086 [Portland Regional Office] for the following counties: Clackamas, Columbia, Hood River, Multnomah, Wasco, Washington, and Yamhill
- (541) 385-6944 [Central Oregon Office] for the following counties: Crook, Deschutes, and Jefferson
- (541) 276-6685 [Pendleton Regional Office] for the following counties: Gilliam, Morrow, Umatilla, Union, Wallowa, and Wheeler
- **OregonLawHelp.org** is an online guide to legal resources and legal information for low-income persons. Find articles, forms, courts, where to find legal help, and more. See: <http://oregonlawhelp.org/>.

Filing for Bankruptcy with the Help of a Bankruptcy Petition Preparer

Some people filing for bankruptcy use the services of a Bankruptcy Petition Preparer, a non-attorney who helps fill out the bankruptcy paperwork for a fee. If you are thinking of using a Bankruptcy Petition Preparer, you should be aware of the following:

- FEDERAL LAW REQUIRES all Bankruptcy Petition Preparers who help debtors file for bankruptcy to: (1) sign the bankruptcy documents; (2) provide their names, addresses, and social security numbers; and (3) list all fees that have been paid to them or are still owed to them.
- FEDERAL LAW PROHIBITS Bankruptcy Petition Preparers from: (1) providing legal advice; (2) signing their clients' names on documents; (3) collecting or receiving court filing fees; and (4) using the word "legal" in their advertisements.
- SOME PEOPLE HAVE BEEN VICTIMIZED by deceptive or dishonest practices by Bankruptcy Petition Preparers. Bankruptcy Petition Preparers may charge too much for their services or may give you bad information that harms you. It also may be hard to get a refund of any money that you pay to a Bankruptcy Petition Preparer or collect other damages that you suffer.

If you use a Bankruptcy Petition Preparer and later have complaints, please contact the United States Trustee's Office (503-326-4000 in Portland; 541-465-6330 in Eugene).

Credit Counseling and Financial Management (Debtor Education)

You must complete two instructional courses to be entitled to a discharge in a Chapter 7 or Chapter 13 case – one before filing, and one after filing.

Credit Counseling Briefing. The [Bankruptcy Code](#) requires that individual debtors who file for bankruptcy relief receive a credit counseling briefing within 180 days **before** the bankruptcy filing. The briefing may be in-person, over the phone, or on the Internet, and must be provided by a nonprofit budget and credit counseling agency

approved by the United States Trustee. Click [here](#) for a list of approved agencies. The counseling agencies charge a small fee for their services which may be waived on a case-by-case basis; consult with the counselor about the availability of a waiver. A certificate of completion of the credit counseling briefing must be filed with your bankruptcy petition.

Your case may be dismissed if you do not file the required certification, and you will not receive a discharge of your debts. In some cases, you may not be allowed to file another case for 180 days, or your protection under the Bankruptcy Code's automatic stay from your creditors may be limited.

If you are incapacitated or disabled (as defined by the [Bankruptcy Code](#)), or are on active military duty in a military combat zone, the requirement for credit counseling can be waived. [LBF 100.3](#) must be used to file a motion for exemption when you file your petition.

Financial Management (Debtor Education). After filing a bankruptcy case, you must also complete a financial management instructional course (debtor education) in order to receive a discharge. Failure to complete the course and file proof of completion will result in your case being closed without a discharge. Click [here](#) for a list of agencies approved to provide the financial management course. As with the pre-bankruptcy counseling, there is a small fee for the course which may be waived on a case-by-case basis. Consult with the agency about the availability of a waiver.

Income/Expenses (Means Testing)

In a Chapter 7 case, the [Bankruptcy Code](#) contains a "means test" to compare monthly income and expenses to determine whether or not a Chapter 7 discharge would be presumed an "abuse" of Chapter 7.

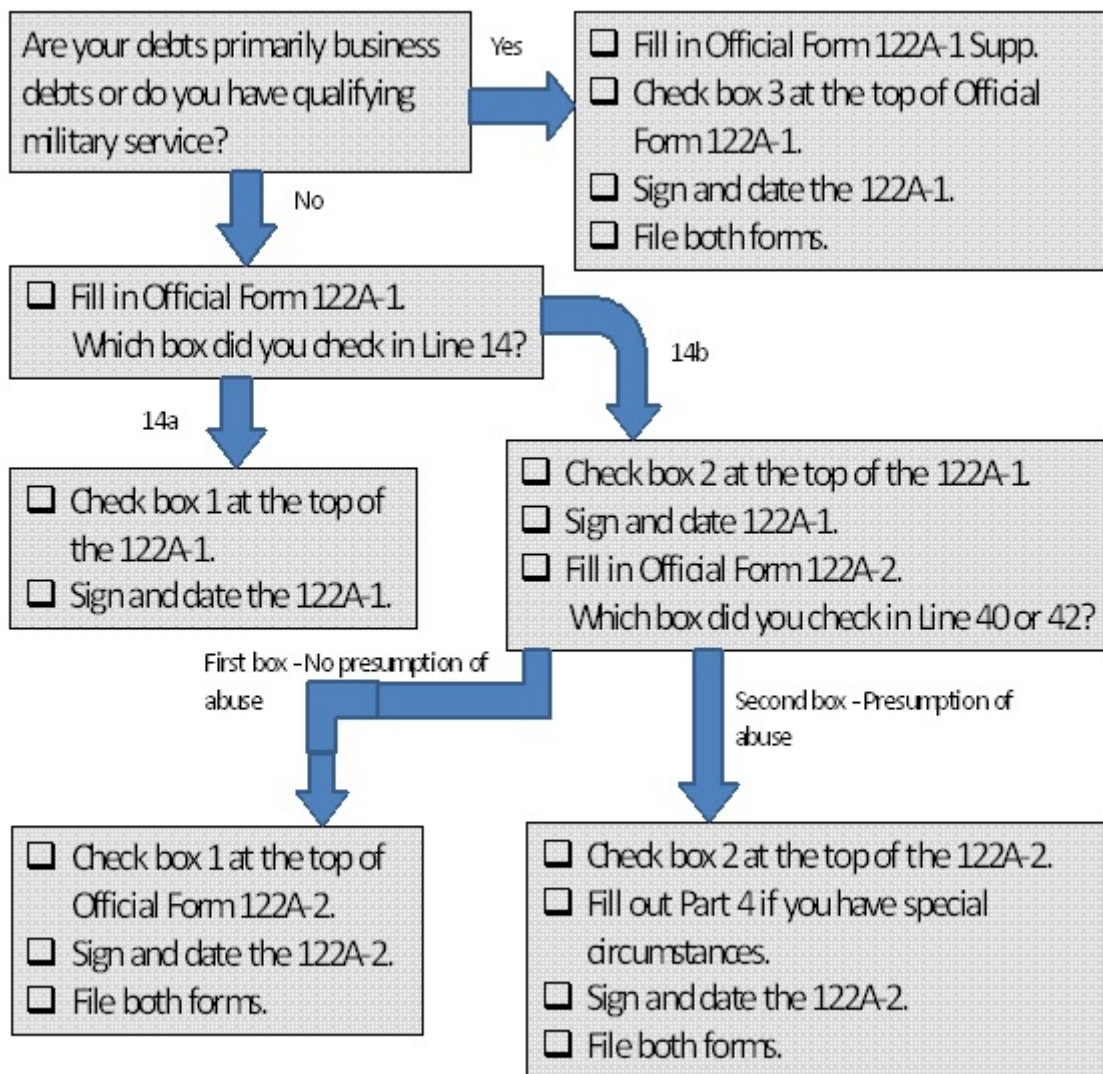
[Official Form 122A-1](#), *Chapter 7 Statement of Your Current Monthly Income*, requests information regarding your gross monthly income for six months prior to the filing of your bankruptcy case. However, some types of income (social security benefits, etc.) are not included for the means test calculation. Generally, if your average gross monthly income is below the [median income in Oregon](#) for your family size, or if your debts are not primarily consumer debts, your case will not be presumed to be an abuse. Even if your case is not a presumed abuse, your case could still be dismissed if the Court finds that it was filed in bad faith, or if your financial situation demonstrates abuse.

If your income is above the median for your family size and your debts are primarily consumer debts, you will need to complete [Official Form 122A-2](#), *Chapter 7 Means Test Calculation*. Allowable expenses are primarily determined by [IRS guidelines](#) as opposed to actual expenditures. Your case may be presumed to be an abuse if you have a specified amount of income left over after expenses are deducted.

You may still be entitled to a Chapter 7 discharge even if your case is presumed to be an abuse, particularly if the figures in the "means test" form do not accurately represent

your current circumstances (e.g., you lost your job or have a lower paying job). If a presumption of abuse exists, some party (usually the U.S. Trustee or a creditor) may file a motion seeking a dismissal of your case. If a motion is filed, and you are unable to rebut the presumption of abuse, the Court generally will enter an order allowing you a certain amount of time to convert your case to Chapter 13, or the case will be dismissed.

If your debts are not primarily consumer debts or you are exempt from the means test due to qualifying military service, you will need to complete [Official Form 122A-1Supp](#), *Statement of Exemption from Presumption of Abuse Under §707(b)(2)*.



Property You Can Keep (Exemptions)

Debtors are entitled to protect their equity in certain property, known as "assets," from becoming part of your bankruptcy estate, and will not be used to pay creditors through your bankruptcy case.

The types and how much of this property is exempt is determined by federal law (the Bankruptcy Code) or state law.

Note that if the unsecured value of an asset exceeds the value of your exemption, then it can be sold by the trustee and only the exempt amount returned to you.

Additionally, if an item is otherwise exempt, it does not eliminate the interests of a secured creditor. For example, if you own a *car* or a *house* that was purchased with a loan from a bank or credit union and the debt is not paid off, your equity (market value less the balance owing) is exempt up to the amount allowed by law, but you will still have to continue to pay for the *car* or *house* or the creditor can repossess it.

Debtors filing in the District of Oregon may elect to use the exemptions provided by federal law or those provided by state law (but not both).

Federal Law. Federal exemptions are set forth in section 522(d) of the Bankruptcy Code (abbreviated as 11 U.S.C. 522(d)). In a case involving joint debtors, one debtor may not elect to use federal exemptions and the other elect to use state exemptions. If the debtors cannot agree on the exemptions to be used, they shall be deemed to have elected federal exemptions.

State Law. To claim an exemption under Oregon law, the debtor must be domiciled in Oregon for the 730-day period immediately preceding the filing of the bankruptcy petition. Otherwise, the law of the state where the debtor was domiciled for the 180 days immediately preceding such 730-day period is used.

After determining what exemptions apply to your assets, you will list them on **Schedule C**. If no one objects to the exemptions you have listed within 30 days following the conclusion of the meeting of creditors (or within 30 days following the filing of any amended claim of exemption, whichever is later), these assets will not be a part of your bankruptcy estate and will not be used to pay creditors through your bankruptcy case.

Deciding which assets are exempt and how and if you can protect these assets from your creditors can be one of the more important and difficult aspects of your bankruptcy case. If you have any questions regarding exempt assets, you should consult an attorney.

DOUBLING EXEMPTION AMOUNTS	Federal Law	Oregon Law
	Each debtor is permitted to claim the full amount of a permitted exemption.	Each debtor may claim the full amount of the exemption permitted for books, pictures, and musical instruments; wearing apparel, jewelry and other personal items; tools and instruments necessary to permit the debtor to carry on his or her trade; a motor vehicle and \$400 in equity in "other property." Oregon law does not permit the doubling of other personal property exemptions.

COMMON EXEMPTIONS		
Property	Federal Law	Oregon Law
Homestead (including land, floating home, and manufactured dwelling)	11 U.S.C. 522(d)(1) \$22,975 in equity in real or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor. Includes the proceeds of a post petition sale of the debtor's homestead.	O.R.S. 18.395 \$40,000 in equity for individual debtor; \$50,000 in equity for joint debtors. Also applies to proceeds of sale of residence for one year. [ORS 18.395] However, if the debtor is entitled to use the homestead exemption for a state other than Oregon, the amount allowed to be exempted may not exceed \$125,000 if the home was acquired within 1,215 days prior to filing for bankruptcy, unless the property is the principal residence of a family farmer, or unless the debtor "rolled over" equity into a new residence from a prior residence owned in the same state during such 1,215-day period. Moreover, a state law homestead exemption is reduced by the amount that the value of the exemption is attributable to any property disposed of by the debtor during the preceding 10 years with the intent to hinder, delay, or defraud a creditor, to the extent the property disposed was not exempt at the time of its disposition.
Motor Vehicle	11 U.S.C. 522(d)(2) \$3,675 in equity in a vehicle. May be claimed by each debtor in a joint case. If a vehicle is jointly owned, each debtor may an exemption in the same vehicle.	O.R.S. 18.345(1)(d) \$3,000 in equity in a vehicle. May be claimed by each debtor in a joint case. If a vehicle is jointly owned, each debtor may claim an exemption in the same vehicle.
Household Goods	11 U.S.C. 522(d)(3)	O.R.S. 18.345(1)(f)

COMMON EXEMPTIONS		
Property	Federal Law	Oregon Law
	\$12,250 in value in household furnishings, household goods, wearing apparel, appliances, animals, crops or musical instruments held primarily for the personal, family or household use of the debtor or a dependant of the debtor, provided, however, that the equity in any single item may not exceed \$575. This exemption may be claimed by each debtor in a joint case.	Furniture, radios, a television set and utensils: \$3,000 plus provisions and fuel as required for support of householder and family for 60 days.
Wearing Apparel, Jewelry, and Other Personal Items	11 U.S.C. 522(d)(4) \$1,550 in value in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.	O.R.S. 18.345(1)(b) \$1,800 for individual debtor; \$3,600 for joint debtors in wearing apparel, jewelry or other personal items.
Other Property (Wild Card Exemption)	11 U.S.C. 522(d)(5) The amount of the wild card exemption is significantly more generous, allowing each debtor to exempt \$1,150 plus up to \$10,825 in any unused homestead exemption. This exemption (which may be doubled for joint debtors) is <u>not</u> subject to the restriction that the exemption "may not be used to increase the amount of any other exemption." It is not necessary for a debtor to claim a homestead exemption in order to claim the additional \$10,825 wild card exemption provided by federal law.	O.R.S. 18.345(1)(o) The amount of that exemption (which may be doubled for joint debtors) is \$400 and "may not be used to increase the amount of any other exemption." This means that a debtor may not use his or her \$400 wild card exemption to increase the amount of, for example, his or her <i>motor vehicle</i> exemption.
Tools of the Trade	11 U.S.C. 522(d)(6) \$2,300 in value in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.	O.R.S. 18.345(1)(c) \$3,000 for an individual debtor or \$6,000 for joint debtors. Includes a library necessary for the debtor's occupation.
Unmatured Life Insurance	11 U.S.C. 522(d)(7) Any unmaturred life insurance contract owned by the debtor, other than a credit life insurance contract.	Possible exemptions include: O.R.S. 743.047 (Group Life Insurance) O.R.S. 743.046 (Cash Surrender Value for an individual life insurance policy that is not an annuity) O.R.S. 743.050 (Proceeds from health insurance policies)
Loan Value of Unmatured Life Insurance Contract	11 U.S.C. 522(d)(8) The debtor's interest, not to exceed	Possible exemptions include: O.R.S. 743.047 (Group Life Insurance)

COMMON EXEMPTIONS		
Property	Federal Law	Oregon Law
	\$11,525, less automatic premium loan payments, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.	O.R.S. 743.046 (Cash Surrender Value for an individual life insurance policy that is not an annuity) O.R.S. 743.050 (Proceeds from health insurance policies)
Professionally prescribed health aids	11 U.S.C. 522(d)(9) Professionally prescribed health aids of the debtor or a dependent of the debtor.	O.R.S. 18.345(1)(h) Professionally prescribed health aids of the debtor or a dependent of the debtor.
Social Security, Disability, Retirement and other Benefits replacing wages	11 U.S.C. 522(d)(10) Social security and disability payments are fully exempt. Payments from pensions or profit sharing plans made on account of illness, disability, age or length of service are exempt to the extent reasonably necessary for the support of the debtor and his or her dependents. Payments under pensions, stocks bonuses and profit sharing are not exempt if the plan was established by an insider of the debtor or the contract does not qualify as tax exempt under the Internal Revenue Code.	42 U.S.C. 407 (Social Security) O.R.S. 411.760 (Public Assistance) O.R.S. 657.855 (Unemployment) O.R.S. 344.580 (Vocational Rehabilitation Payments) 33 U.S.C. 916 (Longshoremen's & Harbor Worker's Compensation) O.R.S. 656.234 (Worker's Compensation) O.R.S. 18.358 (Pensions, Retirement Plans, IRA or Keogh Plans) O.R.S. 238.445 (Public Employees Retirement Fund)
Right to Compensation for Injury and Lost Earnings	11 U.S.C. 522(d)(11) (1) An award under a crime victim's reparation law; (2) Payment for wrongful death of an individual of whom the debtor was a dependent to the extent reasonably necessary for the support of the debtor and his or her dependents; (3) Payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and his or her dependents; (4) Payment, not to exceed \$21,625 on account of personal bodily injury, not including pain and suffering, or compensation for actual pecuniary loss,	O.R.S. 18.345(1)(j) (Crime victim's award) O.R.S. 18.345(1)(k) (Payment, not to exceed \$10,000, for personal bodily injury of the debtor or an individual of whom the debtor is a dependent) O.R.S. 18.345(1)(l) (Loss of future earnings of the debtor or an individual of whom the debtor is a dependent to the extent reasonably necessary for the support of the debtor and his or her dependents)






COMMON EXEMPTIONS		
Property	Federal Law	Oregon Law
	<p>of the debtor or an individual of whom the debtor is a dependent;</p> <p>(5) Payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and his or her dependents.</p>	
Retirement Funds	<p>11 U.S.C. 522(d)(12)</p> <p>Must be in a fund or account that is tax exempt under the Internal Revenue Code.</p>	<p>O.R.S. 18.345(1)(j) (Crime victim's award)</p> <p>O.R.S. 18.345(1)(k) (Payment, not to exceed \$10,000, for personal bodily injury of the debtor or an individual of whom the debtor is a dependent)</p> <p>O.R.S. 18.345(1)(l) (Loss of future earnings of the debtor or an individual of whom the debtor is a dependent to the extent reasonably necessary for the support of the debtor and his or her dependents)</p>
Books, Pictures, Musical Instruments	No federal exemption.	<p>O.R.S. 18.345(1)(a)</p> <p>Exempt to a value of \$600.</p>
Domestic Animals and Poultry	No federal exemption.	<p>O.R.S. 18.345(1)(e)</p> <p>Exempt to a value of \$1,000 and food sufficient to support the animal(s) for up to 60 days. Must be kept for family use.</p>
Earned Income Credit	No federal exemption.	O.R.S. 18.345(1)(n)
Spousal Support and Child Support	<p>11 U.S.C. 522(d)(10)(D)</p> <p>Exempt to the extent reasonably necessary for the support of the debtor and his or her dependents.</p>	<p>O.R.S. 18.345(1)(i)</p> <p>Exempt to the extent reasonably necessary for the support of the debtor and his or her dependents.</p>
Veterans Benefits	11 U.S.C. 522(d)(10)	O.R.S. 18.345(1)(m)
Wages	No federal exemption.	<p>O.R.S. 18.385</p> <p>Disposable (net) earnings for individuals are exempt unless they are in excess of the following amounts: paid weekly - \$196, paid biweekly - \$392, paid semi-monthly - \$420 or paid monthly - \$840. If the disposable net earnings are more than the foregoing figures, then the lesser of (1) the amount by which the disposable earnings exceed the foregoing figures, or (2) 25% of the disposable earnings may</p>

COMMON EXEMPTIONS		
Property	Federal Law	Oregon Law
		not be exempt and can become a part of your bankruptcy estate.
Firearms	No federal exemption.	O.R.S. 18.362 Every citizen above the age of 16 may claim an exemption of \$1,000 (total value) in one pistol and one rifle or one shotgun.



WARNINGS!

Filing for bankruptcy is a serious matter. Please note the following:

-  To ensure accuracy, you must carefully read all documents before you file them with the Bankruptcy Court. Your signature on many of the documents constitutes a certification under penalty of perjury that the information on the document is true and correct to the best of your knowledge.
-  You must list all of your interests in property, belongings, and possessions, as well as all of your debts, on your bankruptcy documents. You must be completely truthful in your dealings with the Bankruptcy Court and the trustee. False statements can result in your discharge being denied or revoked, and can subject you to criminal prosecution.
-  Failure to follow the laws and rules concerning bankruptcy (paying fees, filing documents, attending the [meeting of creditors](#), etc.) can result in a dismissal of your case. If your case is dismissed, creditors may then resume collection efforts. If you refile, you may not receive all of the protections of the Bankruptcy Code.
-  Any installment payments must be received by the Bankruptcy Court on or before the due date. Your case may be dismissed if you are late on any installment payments.
-  You cannot dismiss a Chapter 7 case without permission from the Bankruptcy Court. For example, if you file a Chapter 7 case and the trustee finds assets which are not exempt, the Bankruptcy Court may not allow you to dismiss your case.

Types of Debts -- Secured, Unsecured, and Priority Debts

Secured Debt - A secured debt is a debt that is backed by property. A creditor whose debt is “secured” has a right to take property to satisfy a “secured debt.” For example, most homes are backed by a “secured debt.” This means that the lender has the right to take the home if you fail to make payments on the loan. Most people who buy new cars on credit give the lender a “security interest” in the car. This means that the debt is a “secured debt” and that the lender can take the car if you fail to make payments on the car loan. Secured debts are to be listed on [Schedule “D”](#) of your bankruptcy documents.

Priority Debt - A priority debt is a debt entitled to priority in payment, ahead of most other debts, in a bankruptcy case. The [Bankruptcy Code](#) contains a listing of priority debts. The most common examples of priority debts include domestic support obligations and many taxes. Priority debts are generally not discharged in bankruptcy. If you have questions deciding which of your debts are entitled to priority status, you should consult an attorney. Priority debts are to be listed on [Schedule “E/F”](#) of your bankruptcy documents.

Unsecured Debt - A debt is unsecured if you have simply promised to pay someone a sum of money at a particular time and you have not pledged any real or personal property to secure that debt. For example, most credit card debts are unsecured. Most unsecured debts are dischargeable in bankruptcy, but as noted below, there are [exceptions to discharge](#). Unsecured debts are to be listed on [Schedule “E/F”](#) of your bankruptcy documents.

Forms

Chapter 7

FILE THE FOLLOWING DOCUMENTS IN THE ORDER LISTED:

You may put them together with a clip or rubber band, but *do not* staple or hole punch them.

- \$335 Filing Fee **or** Individual Debtor's Application to Pay Filing Fees in Installments ([LBF 110](#)) **or** Application to Have the Chapter 7 Filing Fee Waived ([Official Form 103B](#))
- A mailing list prepared following [LBF 104](#) instructions [the mailing list does not require a signature]
- Statement About Your Social Security Numbers ([Official Form 121](#))
- Petition for Individuals ([Official Form 101](#))
- Individual Debtor's Statement of Intention ([LBF 521.05](#))
- Summary of Your Assets & Liabilities ([Official Form 106Sum](#))
- Schedules [A/B](#), [C](#), [D](#), [E/F](#), [G](#), [H](#), [I](#) & [J](#) and possibly J-2 (Official Forms 106A-J)
- Declaration About an Individual Debtor's Schedules ([Official Form 106Dec](#))
- Statement of Financial Affairs ([Official Form 107](#))
- Statement of Your Current Monthly Income ([Official Form 122A-1](#)). Completion of this form will determine whether [Official Form 122A-2](#) or [Official Form 122A-1Supp](#) are also required.
- Certificate of Credit Counseling **or** Motion for Extension of Time/Exemption ([LBF 100.3](#))

Only an original of the documents is required for filing. However, if you want a stamped copy returned to you, please provide a self-addressed stamped envelope and an extra copy.

Chapter 13

FILE THE FOLLOWING DOCUMENTS IN THE ORDER LISTED:

You may put them together with a clip or rubber band, but *do not* staple or hole punch them.

- \$281 Filing Fee **or** the required minimum payment with Individual Debtor's Application to Pay Filing Fees in Installments ([LBF 110](#))
- A mailing list prepared following [LBF 104](#) instructions [the mailing list does not require a signature]
- Statement About Your Social Security Numbers ([Official Form 121](#))
- Petition for Individuals ([Official Form 101](#))
- Financial Review of Debtor's Non-Farming/Non-Fishing Business ([LBF Exhibit D-2](#)) [if applicable]
- Financial Review of Debtor's Farming/Fishing Business ([LBF Exhibit D-1](#)) [if applicable]
- Summary of Your Assets & Liabilities ([Official Form 106Sum](#))
- Schedules [A/B](#), [C](#), [D](#), [E/F](#), [G](#), [H](#), [I](#) & [J](#) and possibly J-2 (Official Forms 106A-J)
- Declaration About an Individual's Debtor's Schedules ([Official Form 106Dec](#))
- Statement of Financial Affairs ([Official Form 107](#))
- Statement of Your Current Monthly Income ([Official Form 122C-1](#)). Completion of this form will determine whether [Official Form 122C-2](#) is also required.
- Certificate of Credit Counseling **or** Motion for Extension of Time/Exemption ([LBF 100.3](#))
- Chapter 13 Plan ([LBF 1300.14](#))

Only an original of the documents is required for filing. However, if you want a stamped copy returned to you, please provide a self-addressed stamped envelope and an extra copy.

Fees

If you cannot pay the filing fees in full at the time of filing, you may submit with your petition an *Individual Debtor's Application to Pay Filing Fees in Installments* ([LBF 110](#)).

If an Application to Pay Filing Fees in Installments is granted, you may not pay an attorney or petition preparer any further money for services rendered until all of the filing fees are paid in full.

Please be aware that anyone filing a Chapter 13 case must pay the minimum payment required by LBF 110.

Please note that your case may be dismissed if any installment payment is not received by the Bankruptcy Court on or before the due date.

The Bankruptcy Court may waive the filing fee for an individual Chapter 7 debtor if his or her income is less than [150% of the official poverty line](#) applicable to a family of the size involved, and is unable to pay that fee in installments. If you feel that a filing fee waiver is warranted, you must file with your petition a fully completed *Application to Have the Chapter 7 Filing Fee Waived* ([Official Bankruptcy Form 103B](#)). If the Bankruptcy Court denies your application for a filing fee waiver, the judge will normally enter an order requiring the payment of the filing fee in installments. In that case, failure to make the installment payments on or before their due dates may result in the dismissal of the bankruptcy case.

Where to File

Bankruptcy petitions must be filed in the appropriate office of the court as follows. You may file your documents by either mailing them to the Court, **or** by bringing them to the Court in person.

If you reside or have a principal place of business in these counties: Benton, Coos, Curry, Douglas, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, or Polk, file your documents in Eugene at: U.S. Bankruptcy Court, 405 E. 8th Avenue #2600, Eugene, OR 97401.

If you reside or have a principal place of business in any Oregon county not listed above, file your documents in Portland at: U.S. Bankruptcy Court, 1001 S.W. 5th Avenue #700, Portland, OR 97204.

In order to make sure that you have all needed documents before you file a case, please review the [checklist](#) at the end of this document.

After You File

Documents You Must Provide to Trustee and United States Trustee

After the filing of your case, you are required to provide certain documents to the trustee assigned to your case (sometimes called the “case trustee”) and to the U.S. Trustee. The name, address, and phone number of the trustee will be on the notice you receive from the Bankruptcy Court shortly after you file. The address of the U.S. Trustee will be provided below.

Documents Required to be Provided to the Trustee before the Meeting of Creditors. Within 7 days before the date set for the meeting of creditors, you must send to the **case trustee** a copy of your most recently filed federal income tax return.

The trustee will accept a computer printout of your return information called a “tax return transcript” available from the [IRS website](#) free of charge. You may also order one by phone at (503) 415-7361 or in person at an IRS office. Alternately, you can obtain a copy of a previously filed federal return by submitting [Form 4506](#) to the IRS. There is a \$57 fee for each year requested, and it will take 4-6 weeks to receive the copy.

Documents to Provide to the Trustee at the Meeting of Creditors. The case trustee will generally require you to provide the following documents at the meeting of creditors:

- Photo ID and Proof of Social Security Number.
- Statements from all your accounts covering the filing date (checking, savings, money market, mutual funds, brokerage); statements should show balance on day before filing date AND prior 30 days of account information; must also show name and account number.
- Evidence of current income covering date of filing (most recent pay stubs); might include more than one so that unpaid wages for filing date can be calculated.
- Copy of most recently filed state income tax return.
- Statements from your retirement accounts, including pensions, 401(k), IRA, annuities, or other accounts; include details showing type of account and verifying exempt status.
- Real property tax statements for all parcels of real estate in which you have any interest, including equitable interests.
- Car registrations or titles for all your motor vehicles.

- If divorced within two years before filing, the divorce judgment with all documents incorporated in the judgment, and any modifying orders.
- If you have a domestic support obligation (child or spousal support), a [Panel DSO Notice Information Sheet](#) regarding those obligations, including address for holder of claim (or statement that debtor not allowed to have address); required even if you are current on payments.

Documents to Provide to the U.S. Trustee. Within 14 days after you file your bankruptcy petition, you must send to the **United States Trustee** a copy of any paycheck stubs, profit and loss statements, or other evidence of income from any source received within 60 days before the filing of your case. For Portland cases, send these items to U.S. Trustee, 620 SW Main St #213, Portland, OR 97205-3026. For Eugene cases, send these items to U.S. Trustee, 405 E 8th Ave #1100, Eugene, OR 97401. **Do not file these documents with the Bankruptcy Court.**

Please note that failure to provide these documents to the U.S. Trustee and the trustee can result in the dismissal of your case.

Protection From Creditors (Automatic Stay)

Once your bankruptcy petition is filed, an “automatic stay” goes into effect which in most circumstances stops creditors from most collection actions - phone calls, letters, lawsuits, garnishments, repossessions, and foreclosure. Note, however, that if you had any prior bankruptcy cases dismissed within one year prior to the filing of the new case, the stay may not go into effect, or may be effective for only a short period of time (such as 30 days) unless you take action to impose (establish) or continue the stay. In addition, in certain situations, a creditor may file a motion for “relief” from the automatic stay. For example, if you are behind on car payments when you file your petition, the lender may file a motion for relief from the stay seeking the Bankruptcy Court’s permission to repossess the car.

A creditor that attempts to collect a debt after the bankruptcy is filed without permission from the Bankruptcy Court is in violation of the automatic stay. You should immediately notify the creditor in writing that you have filed bankruptcy, and provide them with either the case number and filing date or a copy of the petition that was filed. If the creditor still continues to try to collect, you may be entitled to take legal action against the creditor for damages resulting from the violation of the stay. Any legal action brought against the creditor will be complex and will normally require representation by a qualified bankruptcy attorney.

Meeting of Creditors

The [Bankruptcy Code](#) requires that you personally attend a meeting of creditors (sometimes also called “341 meeting” or “creditors’ meeting”) and answer questions under oath. Meetings of creditors usually are conducted between 21 and 60 days after the petition is filed and are held at a number of locations throughout the state. The case trustee appointed by the United States Trustee presides at the meeting of creditors. The meeting is recorded, and the trustee will place you under oath and ask you questions about your bankruptcy documents, property, debts, financial condition and other matters. This information enables the trustee to understand your circumstances and decide if there are assets that could be liquidated for the benefit of your creditors.

Your creditors are notified that they may attend the meeting of creditors and question you about your assets and any other matter relevant to the administration of the case. However, creditors rarely attend these meetings and are not considered to have waived any of their rights if they do not appear.

The meeting usually lasts less than ten minutes but may be continued if the trustee is not satisfied with the information you provide or if the trustee or others need more time to review your financial circumstances and question you about them. If you fail to appear or fail to provide the information requested at the meeting, the trustee may request that the bankruptcy case be dismissed or that you be ordered by the court to cooperate.

Secured Debts – Reaffirmation and Redemption

As noted above, a debt that is backed by real or personal property is considered a “secured” debt. A creditor whose debt is “secured” has a legal right to take possession of the property as full or partial satisfaction of the debt if the borrower fails to make payments on the loan. In general, in a Chapter 7 case, you must either reaffirm the debt, redeem the property, or surrender the property securing the debt to the creditor. Note, however, that some liens can be avoided (eliminated) in bankruptcy. See [LBR 4003-2](#).

A reaffirmation agreement is an agreement by which you become legally obligated to pay all or a portion of a debt that could otherwise be discharged in your bankruptcy case. All reaffirmation agreements must be filed using [Official Form 2400A](#) (preferable) or [Official Form 2400A/B Alt](#). In either case, [Official Form 427](#) must be attached as a cover sheet. To be timely, you must file the agreement within 60 days after the first date set for your meeting of creditors.

Reaffirmation agreements are strictly voluntary. They are not required by the Bankruptcy Code or other state or federal law. You can voluntarily repay any debt instead of signing a reaffirmation agreement, but there may be valid reasons for wanting to reaffirm a particular debt.

If a reaffirmation agreement is filed, the Bankruptcy Court will schedule a hearing which you must attend. The judge will consider whether the reaffirmation agreement is in your best interests and then decide whether to approve it. Since a reaffirmation agreement takes away some of the benefits of bankruptcy, you should seek legal advice before agreeing to a reaffirm a debt. Even if you sign a reaffirmation agreement, you have 60 days after the agreement is filed with the Bankruptcy Court (or the date of entry of discharge, whichever is later) to change your mind and cancel the agreement. You must notify the creditor if you decide to cancel the agreement. **If you reaffirm a debt, do not cancel the agreement, and fail to make the payments as agreed, the creditor can take action against you to recover any property that was given as security for the debt, and you may remain personally liable for any remaining debt after the property is sold.**

Redemption, by contrast, allows you to keep personal property by paying the lender the replacement value of the property (the price a retail merchant would charge for property of such kind, considering the age and condition of the property at the time the value is determined) without deduction for costs of sale or marketing. For example, if you have a \$6,000 balance on a car loan, but the replacement value of the car is only \$4,000, you can redeem the car by paying \$4,000 to the creditor, and obtain clear title.

Redemption must be made in one lump sum payment to the creditor. If you and the creditor agree to the redemption, a stipulated order of redemption is required. If the creditor or trustee opposes the redemption, you may file a motion for redemption using [LBF 717.20](#) within 45 days following the first date set for the meeting of creditors. See [LBF 717.10](#) for redemption procedures.

Elimination of Debts (Discharge)

A discharge means that you no longer have a legal obligation to pay debts that are discharged. You will receive an order granting a discharge of debt unless for some reason a general discharge of debts is denied. In a Chapter 7 case, the discharge order typically is entered within 75 days after the meeting of creditors. In Chapter 13 cases, the discharge order typically is entered upon the request of the trustee following completion of the debtor's plan payments. The granting of a discharge (1) is not a dismissal of the case, (2) does not determine the property, if any, that a Chapter 7 trustee will administer, and (3) does not always automatically result in the closing of the case.

The discharge is an order which prohibits your creditors from making any attempt to collect debts that have been discharged. For example, a creditor is not permitted to contact you by mail, phone, or otherwise, to file or continue a lawsuit, to garnish wages or attach property, or to take any other action to collect a discharged debt from you. A creditor who violates the discharge order can be held in contempt and required to pay you damages and attorney fees. However, even if a debt is discharged, a creditor may have the right to enforce a valid lien, such as a mortgage or security interest, against the collateral after the bankruptcy, if that lien was not avoided or eliminated in the bankruptcy case.

Even if you have the legal right to discharge a debt, you can formally [reaffirm the debt](#), or [redeem collateral](#) which secures a debt. You also can voluntarily repay any debt that has been discharged.

Most unsecured debts are discharged if the debt existed on the date the bankruptcy case was filed. However, under some circumstances, your bankruptcy discharge could be withheld or denied; some debts are not dischargeable; and the dischargeability of other debts could be denied, depending on particular circumstances.

Debts that Cannot be Eliminated

A discharge can be denied by the Bankruptcy Court for either all debts (denial of debtor's discharge) or for one particular debt (denial of the dischargeability of a particular debt).

Denial of Debtor's Discharge - In the following circumstances, you are not entitled by law to a discharge of any debts if:

- In a Chapter 7 case, you are not an individual debtor (corporations, partnerships, etc.).
- In a Chapter 7 case, you received a discharge in a Chapter 7 or Chapter 11 case filed within eight years or (with certain exceptions) received a discharge in a Chapter 12 or 13 case within six years of the date you filed your current case.
- In a Chapter 7 case, you filed a waiver of discharge and the Bankruptcy Court has approved it.
- In a Chapter 13 case, you received a discharge in a Chapter 7 case filed within four years, or a discharge in a Chapter 13 case filed within two years, of the date you filed your current case.

If you are not entitled to a discharge because of a discharge entered in a prior case, the Bankruptcy Court will typically issue a Notice of Intent Not to Grant a Discharge.

Under certain circumstances, your right to a general discharge can be denied by the judge. This usually results from some major misconduct. In order for a discharge to be denied for any of these reasons, a party in interest (such as a trustee or creditor) must file an *Adversary Complaint* objecting to discharge within sixty days following the first date set for the [meeting of creditors](#). The most common examples of misconduct are:

- You transferred or concealed property with the intent to defraud creditors or the bankruptcy estate;

- You concealed, destroyed, mutilated, falsified, or failed to keep or preserve books and records about your financial condition and/or business transactions;
- You failed to satisfactorily explain a loss of assets;
- You lied on your bankruptcy documents or at your [meeting of creditors](#);
- You failed to turn over non-exempt assets to the trustee;
- You refused to obey a lawful order of the Bankruptcy Court.

Denial of the Dischargeability of a Particular Debt - Most debts are dischargeable in bankruptcy. The Bankruptcy Code, however, states that certain individual debts are not dischargeable, and that the creditor does not need to take any Court action to have such a debt declared non-dischargeable. The most common examples of non-dischargeable debts are:

- Debts for certain taxes and debts incurred to pay those taxes;

Notes:

You can generally discharge personal income tax liability if -

- ☞ You have filed the tax return at least two years before filing for bankruptcy,
- ☞ More than three years have passed since the return was due (generally April 15 following the year when the income was earned, unless you received an extension of time to file, in which case the three-year period starts running on the last day to file under the extension), **and**
- ☞ The tax has been assessed for at least 240 days before you file for bankruptcy.

As this is a very technical area of the law, you are strongly urged to consult with an experienced bankruptcy attorney if you are seeking to discharge taxes in bankruptcy.

- Debts for domestic support obligations (child and spousal support) or those arising out of a divorce decree or separation agreement (except that non-support marital debt can be discharged in Chapter 13);
- Debts for most student loans;

- Debts for most fines, penalties, forfeitures, or criminal restitution;
- Debts for personal injury or death caused by your operation of a motor vehicle, vessel, or aircraft while intoxicated;
- Some debts which were not properly listed on the bankruptcy petition and schedules;
- Debts for which a Reaffirmation Agreement has been approved; and
- Debts which could have been listed in a prior bankruptcy case if your discharge was denied or waived in that case.

The dischargeability of other types of individual debts may be denied if the creditor files, within sixty days after the first date set for the [meeting of creditors](#), an *Adversary Complaint* to deny the dischargeability of the debt. If such a complaint is timely filed, the judge ultimately will decide whether or not the debt will be discharged. If a complaint is not timely filed, the debt will be discharged. Such "potentially non-dischargeable" debts include:

- Debts incurred by fraud, false pretenses, or materially false statements regarding financial condition;
- Debts incurred as a result of fraud or defalcation while acting in a fiduciary capacity, or for embezzlement or larceny;
- Debts incurred for willful and malicious injury by you to another entity or property of another entity (except that such debts can be discharged in Chapter 13).

Note: You may receive a discharge even if a complaint to deny the dischargeability of a single debt is still pending. The debt in question will not be discharged until the judge rules on the objection.

CAUTION: These lists include many examples of non-dischargeable debts, but Sections [523](#) and [1328](#) of the Bankruptcy Code should be reviewed for complete lists.

Credit Reporting

The Bankruptcy Court has no authority over credit reporting agencies, and does not report to any of the agencies. The bankruptcy petition, schedules and other documents are all public documents. Credit reporting agencies regularly collect information from the petitions filed and report the information on their credit reporting services. Under the provisions of the [Fair Credit Reporting Act](#), the fact that an individual filed a bankruptcy can remain on the credit report no longer than 10 years. According to the [Consumer Data Industry Association](#), if a Chapter 13 bankruptcy is successfully completed, the credit

reporting industry retains the information for only seven years rather than the ten years allowed by law (to encourage debtors to file under that chapter).

Bankruptcies may be taken into consideration by any person reviewing a credit report for the purpose of extending credit in the future. The decision whether to grant you credit in the future is strictly up to the creditor and varies from creditor to creditor depending on the type of credit requested. There is no law that prevents anyone from extending credit to you nor will a creditor be required to extend credit to you. (However, a Chapter 13 debtor is generally prohibited from incurring credit while the case is pending without the approval of the Chapter 13 trustee.)

The best way for you to obtain credit in the future is to generate adequate and regular income and to pay all of your financial obligations in a timely and responsible manner. Many creditors will not deal with you in the future unless you have already established credit with someone else and demonstrated that you are reliable. In general, it is recommended that, after the filing of a bankruptcy, you learn to live within your income and not request credit which is not absolutely necessary. The [Federal Trade Commission](#) has a number of educational publications on its website to help consumers address credit and financial issues.

U.S. Bankruptcy Court – District of Oregon

Information for filing a Chapter 7 or Chapter 13 Individual or Joint Petition

IF YOU ARE CONSIDERING FILING BANKRUPTCY WITHOUT AN ATTORNEY

Use this **CHECKLIST** to be sure you have all the documents to proceed:

Have you read?

- ❖ ___ [Bankruptcy Basics](#): The Process *The Discharge in Bankruptcy *Chapter 7, Liquidation under the Bankruptcy Code *Chapter 13, Individual Debt Adjustment *Glossary of Bankruptcy Terms
- ❖ ___ Notice to Individual Consumer Debtor under Section 342 of the Bankruptcy Code *[Form 2010](#)
- ❖ ___ Means Testing Information *[What is the Chapter 7 Means Test](#)

Have you completed the following forms for filing?

- ❖ ___ A mailing list prepared following [LBF 104](#) instructions
- ❖ ___ Statement of Social Security Number ([Official Form 121](#))
- ❖ ___ Petition for Individuals ([Official Form 101](#))
- ❖ ___ Individual Debtor's Statement of Intention ([LBF 521.05](#)) (Chapter 7)
- ❖ ___ Financial Review of Debtor's Non-Farming/Non-Fishing Business ([LBF Exhibit D-2](#))* (Ch. 13)
- ❖ ___ Financial Review of Debtor's Farming/Fishing Business ([LBF Exhibit D-1](#))* (Chapter 13)
- ❖ ___ Summary of Schedules ([Official Form 106Sum](#))
- ❖ ___ Schedules [A/B](#), [C](#), [D](#), [E/F](#), [G](#), [H](#), [I](#) & [J](#) and possibly J-2 (Official Forms 106A-J)
- ❖ ___ Declaration About an Individual Debtor's Schedules ([Official Form 106Dec](#))
- ❖ ___ Statement of Financial Affairs ([Official Form 107](#))
- ❖ ___ Statement of Your Current Monthly Income [Official Form 122A-1](#) (and [Official Form 122A-2](#) if required) for Chapter 7. [Official Form 122C-1](#) (and [Official Form 122C-2](#) if required) for Chapter 13)
- ❖ ___ Certificate of Credit Counseling or Motion for Extension of Time/Exemption ([LBF 100.3](#))
- ❖ ___ Chapter 13 Plan ([LBF 1300.14](#)) (Chapter 13)

*If applicable

Have you obtained documents that will be needed after your initial filing?

- ❖ ___ A copy of your most recent federal income tax return
- ❖ ___ Copies of pay stubs from employer for 60-day period before filing of petition
- ❖ ___ Copies of checking, savings, and investment accounts showing balances as of day of filing of petition
- ❖ ___ Documentation used to support [Official Form 122A-1](#) (and [Official Form 122A-2](#) if required) or [Official Form 122C-1](#) (and [Official Form 122C-2](#) if required)
- ❖ ___ A picture ID issued by a governmental unit or other personal identifying information
- ❖ ___ Evidence of your social security number or written statement that documentation does not exist

Regarding the Filing Fee

- ❖ ___ Obtain cash (if filing in person), check, or money order payable to "Clerk – U.S. Bankruptcy Court", [LBF 110](#) (Application to Pay in Installments), or [Official Form 103B](#) (Application to Have the Chapter 7 Filing Fee Waived).

After receiving the notice for the Meeting of Creditors

- ❖ ___ Read the notice for the Meeting of Creditors carefully for the date, time, and location of meeting and other important information.
- ❖ ___ Mail a copy of your federal income tax return to the case trustee so it is received no later than 7 days before the meeting.
- ❖ ___ Mail copies of pay stubs to U.S. Trustee (in a Ch. 7) or the case trustee (in a Ch. 13) within 14 days after filing Petition.
- ❖ ___ Gather documents to bring to the Meeting of Creditors – **Picture ID**, evidence of SSN, copies of checking, savings, and investment account statements, documentation used to support [Official Form 122A](#) or [122C](#).
- ❖ ___ Complete the financial management course from an [approved provider](#) and file [proof of](#)

Bankruptcy Terms

This glossary of bankruptcy terms explains, in simple ordinary terms, many of the legal terms that are used in cases filed under the Bankruptcy Code.

Adversary Proceeding - A lawsuit arising in or related to a bankruptcy case that is started by filing a complaint with the Bankruptcy Court. Some types of adversary proceedings are set forth in [Federal Rule of Bankruptcy Procedure 7001](#).

Automatic Stay - An injunction that automatically stops lawsuits, foreclosures, garnishments, and all collection activity against the debtor the moment a bankruptcy petition is filed.

Bankruptcy - A legal procedure for dealing with debt problems of individuals and businesses; specifically, a case filed under one of the chapters of Title 11 of the United States Code (the Bankruptcy Code).

Bankruptcy Code - The informal name for Title 11 of the United States Code ([11 U.S.C. §§ 101-1532](#)), the federal bankruptcy law.

Bankruptcy Court - The bankruptcy judges in regular active service in each federal judicial district.

Bankruptcy Estate - All property in which the debtor has an interest, even if it is titled or held by another person.

Bankruptcy Petition - The document that starts the bankruptcy case. There are official forms for bankruptcy petitions.

Chapter 7 - The chapter of the Bankruptcy Code providing for "liquidation" (*i.e.*, the sale of a debtor's nonexempt property and the distribution of the proceeds to creditors).

Chapter 13 - The chapter of the Bankruptcy Code providing for adjustment of debts of an individual with regular income. Chapter 13 allows a debtor to keep property and pay debts over time, usually three to five years.

Claim - A creditor's assertion of a right to payment from the debtor or the debtor's property.

Collateral - The property that can be taken by a secured creditor if the debtor fails to pay or perform as promised.

Confirmation - Bankruptcy judge's approval of a payment plan in Chapter 13.

Consumer Debtor - A debtor whose debts are primarily consumer debts.

Consumer Debts - Debts incurred for personal, as opposed to business, needs.

Creditor - One to whom the debtor owes money or who claims to be owed money by the debtor.

Credit Counseling and Financial Management (Debtor Education) - Generally refers to the two required courses debtors are required to take in individual bankruptcy cases: (1) Credit Counseling is a briefing from a non-profit budget and credit counseling agency that individual debtors must receive before filing for bankruptcy; and (2) Debtor Education is a course in personal financial management that individual debtors must take after the bankruptcy case is filed in order to receive a discharge.

Current Monthly Income - The average monthly income received by the debtor over the six calendar months before commencement of the bankruptcy case, including regular contributions to household expenses from nondebtors and income from the debtor's spouse if the petition is a joint petition, but not including social security income (and certain other payments made if the debtor is the victim of certain crimes).

Debtor - A person who has filed a petition for relief under the Bankruptcy Code.

Debtor Education - See [Credit Counseling and Financial Management \(Debtor Education\)](#)

Defendant - An individual (or business) against whom a lawsuit is filed.

Discharge - A release of a debtor from certain debts set forth in the Bankruptcy Code. A discharge releases a debtor from personal liability for certain debts known as dischargeable debts and prevents the creditors owed those debts from taking any action against the debtor to collect the debts. The discharge also prohibits creditors from communicating with the debtor regarding the debt, including telephone calls, letters, and personal contact.

Dischargeable Debt - A debt for which the Bankruptcy Code allows the debtor's personal liability to be eliminated.

Equity - The value of a debtor's interest in property that remains after liens and other creditors' interests are considered. Example: If a house valued at \$100,000 is subject to an \$80,000 mortgage, there is \$20,000 of equity.

Exemptions or Exempt Property - Certain property (generally up to a specified value) that the debtor can keep after filing for bankruptcy.

Financial Management - See [Credit Counseling and Financial Management \(Debtor Education\)](#)

Joint Debtors - A husband and wife who file a single bankruptcy petition together (a [Joint Petition](#)).

Joint Petition - One bankruptcy petition filed by a husband and wife together.

Lien - The right to take and hold or sell the property of a debtor as security or payment for a debt or duty.

Liquidation - A sale of a debtor's property in order to use the proceeds for the benefit of creditors.

Local Bankruptcy Forms (or LBFs) - [Bankruptcy forms](#) that are used “locally” (that is, in the District of Oregon only).

Means Test - Section 707(b)(2) of the Bankruptcy Code applies a “means test” to determine if an individual debtor’s Chapter 7 filing is presumed to be an abuse of the Bankruptcy Code.

Meeting of Creditors, Creditors’ Meeting, or 341 Meeting - The meeting of creditors required by Section 341 of the Bankruptcy Code at which the debtor is questioned under oath by the trustee and possibly others about his/her financial affairs.

Motion - A request, filed with the Bankruptcy Court, for a particular action to be approved by the judge.

Motion For Relief From Automatic Stay - A request by a creditor to allow the creditor to take action against the debtor or the debtor’s property that would otherwise be prohibited by the automatic stay.

No-Asset Case - A Chapter 7 case where there are no assets available to satisfy any portion of the creditors’ unsecured claims.

Non-dischargeable Debt - A debt that cannot be eliminated in bankruptcy. Examples of non-dischargeable debts include debts for alimony or child support, certain taxes, debts for most government funded or guaranteed educational loans or benefit overpayments, debts arising from death or personal injury caused by driving while intoxicated or under the influence of drugs, and debts for restitution or a criminal fine included in a sentence on the debtor’s conviction of a crime. Some debts, such as debts for money or property obtained by false pretenses and debts for fraud or defalcation while acting in a fiduciary capacity, may be declared non-dischargeable only if a creditor timely files and prevails in an [Adversary Proceeding](#).

Official Forms (or OFs) - [Bankruptcy forms](#) that are provided by the Administrative Office of the U.S. Courts, used on a national level.

Petition - See [Bankruptcy Petition](#).

Plan - A debtor’s detailed description of how the debtor proposes to pay creditors’ claims over a fixed period of time (Chapter 13).

Plaintiff - An individual (or business) that files a lawsuit.

Priority Claim - An unsecured claim that is entitled to be paid ahead of other unsecured claims which are not entitled to priority status. Common examples of priority claims include child support and most taxes.

Proof of Claim - A written statement and verifying documentation filed by a creditor that describes the reason the debtor owes the creditor money.

Property of the Estate - All legal and equitable interests of the debtor in property as of the commencement of the case plus certain other property specified in the Bankruptcy Code.

Reaffirmation Agreement - An agreement by a Chapter 7 debtor to continue paying a dischargeable debt (such as an auto loan) after the bankruptcy, usually for the purpose of keeping collateral (such as a vehicle) that would otherwise be subject to repossession.

Secured Creditor - A creditor holding a claim against the debtor who has the right to take and hold or sell certain property of the debtor in satisfaction of some or all of the claim.

Secured Debt - Debt backed by a mortgage, pledge of collateral, or other lien; or debt for which the creditor has the right to pursue specific pledged property upon default. Examples of secured debt include home mortgages, auto loans and tax liens.

Schedules - Detailed lists filed by the debtor showing the debtor's assets, liabilities, and other financial information.

Trustee (sometimes referred to as a "case trustee") - The representative of the bankruptcy estate appointed by the United States Trustee who presides at the meeting of creditors and administers the Chapter 7 or Chapter 13 bankruptcy case. The trustee's responsibilities include investigating the debtor's financial affairs; determining if there is property that could be sold or recovered for the benefit of creditors; selling or liquidating such property (Chapter 7); reviewing the plan and making a recommendation as to whether or not it should be approved (Chapter 13); and distributing money to creditors.

United States Trustee - An officer of the Justice Department responsible for supervising the administration of bankruptcy cases, estates, and case trustees; addressing fraud and abuse in the bankruptcy system; and performing other statutory duties.

Unsecured Claim - A claim or debt for which a creditor holds no special assurance of payment, such as a mortgage or lien; or a debt for which credit was extended based solely upon the creditor's assessment of the debtor's future ability to pay.