

LEGAL WAYS TO GET THE BILL COLLECTORS OFF YOUR BACK

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Sometimes, the formal and legal declaration of personal bankruptcy is the best way to go when you're "snowed under" with bills, and you just can't see your way clear to survive.

Actually, bankruptcy allows you to make a fresh start. Generally, it takes only a small amount of monney, a careful evaluation of your assets and your liabilities. In many cases, a lawyer is not necessary.

If you have very few assets, mountains of debt, and not enough income to meet your obligations, then your best bet is almost always the filing of straight bankruptcy. What you'll need is the proper forms "S3010 Bankruptcy forms, for an Individual Not Engaged In Business." These can be purchased from any full-line office supply store, especially in an area serving attorneys' offices.

You'll need to know which district you live in for Federal Court purposes - so look in the white pages of your telephone book under U.S. Government - Courts - and take down the address of the nearest U.S. District Court. Check it out to be sure that your residence is in this court's jurisdiction.

You then fill out the forms you purchased, listing all of your creditors - those with priority being listed first - meaning those who have extended credit to you against some sort of security or collateral, followed by those who have extended credit to you on just your signature or reputation. You must be sure to list all of your creditors because any that you fail to list, will be able to sue you and collect even after the bankruptcy has been adjudicated. At the same time, be sure to include the names of anyone and everyone you may have co-signed a note or a loan for, as well as anyone who may have co-signed for you.

The laws governing personal bankruptcy vary in all states, but generally, a bankruptcy judgement will not take away the house you live in, basic home furnishings, a car that's necessary towards your gainful employment, nor the tools of your trade. Check these things out to be sure against the list of items regarded as the necessities of life by your state.

When you've got all the forms filled out, and notarized, you take them to the Clerk of the U.S. District Court in your jurisdiction. You pay the clerk \$50, and from there, you're home free. The clerk notifies your creditors, and reminds them that being as you've filed bankruptcy papers, they cannot bother you about your debts anymore.

However, they are invited to your hearing. Usually they don't show up, because by that time, you have very few, if any, nonexempt assets left that they are really interested in.

But, whatever assets you do have that are nonexempt, will be sold by the Court to appease your creditors. Any money realized from these sales is then added to the total amount of money you may have turned over to the court at the time of your filing, and divided equally amongst your creditors according to priorities.

After all of this has taken place, and usually about 3 months after you've been adjudged bankrupt, you can start all over again to incur debt, pay bills and establish a new credit rating. However, you should be especially careful about talking with your old creditors because they may attempt to maneuver you into signing a "reaffirmation" of your old debt. The thing to do is to be sure that you carefully read anything you affix your signature to, and don't agree to pay on any debt that has already been discharged through your bankruptcy!

In some bankruptcy filings, it is definitely advantageous to hire an attorney to represent you. This is especially true for people who have assets such as real estate they want to protect, and/or people who have been operating home-based businesses or been accused of fraud. Remember this, if you decide to process your bankruptcy without a lawyer, then it is your responsibility to fill out all the necessary forms accurately and completely, and every bit as precisely as if you had paid an attorney to do it for you. Leaving out a creditor's name or address or forgetting a loan that you co-signed for, will surely bring on litigation against you even after your bankruptcy has been adjudicated. Be sure you understand all the papers, ask the Court Clerk for advice, and if you run into problems, then take it in to an attorney.

Besides the regular bankruptcy laws, there's also a little-known and little-used method of getting reorganized with your debt, particularly when you've got a steady job and just need more time to straighten your indebtedness out. This is the wage-earner's provisions of Chapter XIII of the Federal Bankruptcy laws.

Basically, these provisions allow you to make new arrangements with your creditors and pay off all your debts over a new 3-year period of time. When you filed for indebtedness relief under the provisions of this law, nothing is recorded permanently on your credit record. You get to keep all your assets, but you must pay off all your debts. But, so long as the Court grants you relief under these provisions, and you pay your creditors according to the repayment schedule agreed upon by the Court, your creditors cannot bother you. Even if they have begun a suit against you, once the Court has given you relief, they cannot touch you! Once you've filed under these provisions, your creditors are immediately restricted from even contacting you, and get only what the referee or trustee doles out to them.

Often-times, if a creditor threatens to sue you, the most effective thing you can do is to tell him frankly that if he sues you, you'll have no other alternative except to file bankruptcy papers. In many instances, this will cause him to take a second look and to do what_ev_er he can to assist you in paying him the money you owe, but over a longer period of time, and at smaller monthly payments. The absolute bottom line is that your creditors know only too well that if you do file for bankruptcy, their chances of receiving even half of what you owe is practically nil. Thus, it's in their best interest to do ev_ery_thing they can to help you to continue making payments on the amount you owe, regardless of how small those payments may be.

When a creditor does sue you, and gets a judgement against you, he can then get a court order directing the sheriff to seize your personal property and sell it, with all monies realized going to the creditor to satisfy your debt. When they see this about to happen, many people connive to make themselves "judgement proof." In other words, they hide their assets or move them out-of-state before the sheriff or marshall arrives. This is illegal, but is done as often as not.

Many creditors will attempt to "garnishee" your wages. This is done by getting a court order directing your employer to set aside part of your wages or salary every pay period and turn it over to

him. First, of course, he has to find out where you work; and even then, in most states, there are limits set relative to how much a creditor can garnishee for your wages.

If you have no job, and no visible assets, or you live in a state where your wages cannot be garnisheed, your creditors actually have very few ways of ever collecting from you.

Many techniques used by creditors and collection agencies are illegal. A creditor or agency can write letters to you; call you once a day in quest of a payment; and even knock on your door to ask about a payment. but he is forbidden by law to harass you or invade your privacy, or use deceptive means to get you to pay your bills. He cannot use foul and abusive language over the telephone, tell anyone besides you the reason for his phone call, inconvenience you or in any way threaten your job or your reputation in the neighborhood where you live.

Still, the best idea for reorganization and settlement of your debts when you find yourself in an untenable position, is in-person visits and explanations of your situation with your creditors, and a desire to explore other possible ways of mutual satisfaction without involving collection agencies or bankruptcy. Give it a try - it's a lot easier than most people realize.