

## Three Reasons to File for Bankruptcy

By Gene Sollows, JD  
Bailey & Galyen  
*Your Neighborhood Law Firm*

The reasons people decide, after months and years of struggle, to file for bankruptcy are individual and unique. But for most people, it's situational – an unexpected job loss, medical problem, or divorce has created financial chaos and an inability to pay debts. While the facts in your case are somewhat unique to you, the truth is that everyone who files a bankruptcy does so for one (or more) of the following three reasons:

**Reason Number One:** *Only Bankruptcy Gets All of Your Creditors off Your Back Right Now*

Until you downloaded this information, Creditors have outmaneuvered you, putting you right where they wanted. Creditors use bill collectors and attorneys (often paid on commission) to use all means at their disposal – legal or otherwise – to get their pound of flesh from you. This takes many forms:

- Threatening Phone Calls – to your home, work, neighbors, and relatives
- Threatening Letters
- In-person collection visits to your home
- Offers of “settlement” where they get into your bank account
- Repossession of cars and other personal property
- Lawsuits, judgments, and collections on judgments with garnishments and levies
- Foreclosure of your home and other real estate

*Their only goal is to get your money.* They are utterly uninterested in your personal situation (no matter how dire) and will do whatever it takes to get you to pay. They know something you don't – that your money is a limited resource, and that they are in competition with other creditors for that resource. They think, *if we don't get their money now, someone else will.* Creditors therefore have no qualms about upsetting you personally or ruining your life to collect the money owed them. And creditors don't care if you don't have the resources to hire an attorney to defend against their tactics. They don't care about your sleepless nights and feelings of guilt or embarrassment.

**But here's the good news: a bankruptcy filing automatically stays (stops) all creditor collection activity – even lawsuits, repossessions, and foreclosures – *immediately*.**

The automatic stay is powerful and *only* available in federal bankruptcy court. It goes into effect immediately, *nationwide*, and lasts for the duration of the case unless otherwise ordered by the court – a financial force field around you, your family, and your assets.

**Reason Number Two:** *Bankruptcy Can Give You a Fresh Start*

One of the biggest reasons non-bankruptcy options fail (such as debt settlement, credit counseling, and debt consolidation) is simply the lack of a “finish line.” For many people in debt, there is simply no end in sight. Whether your income is reduced or your expenses are stretching you to the breaking point, ask yourself: *are you trapped in debt you can never repay? When is this nightmare going to end?*

Debt is a burden. Its effects on your mental (and physical!) health as well as your personal relationships (with spouse, family, and friends) are well-established. Wanting relief from this burden is a natural, normal, and a positive reaction to a bad situation. This is why we have had bankruptcy laws in the United States since the founding of our nation – because we believe, as a country, that people are entitled to a second chance. Bankruptcy can help good people resolve bad situations.

If you are reading this, you have probably tried all other options to resolve your debts. Let's go over traditional non-bankruptcy options and explain their shortcomings.

- Debt Settlement – requires a lump sum of money to settle for a portion of the total debt. To obtain this lump sum, you may have to save up – while the interest grows and lawsuits and other collection efforts ramp up against you. Debt settlement companies routinely charge \$5,000.00 or more to negotiate your debts and require their fee up front. For most of our clients, the truth is harsh – *if you had the money to pay your debts, you wouldn't be reading this.* And creditors won't wait around for you to save up enough money to pay them a fraction of their debt.
- Debt Consolidation – this essentially refinances your debt into one payment with (ideally) a lower interest rate. This option assumes that (a) you have the credit and collateral (bank deposits, land, etc.) to get the loan and (b) you can afford a payment at the lower rate. *If you had good credit and the ability to borrow your way out of your debt problem, you wouldn't be reading this.* For many of

our clients, the problem isn't just the interest rate, it's the sheer size of their debts compared to their ability to pay.

- Credit Counseling – while credit counseling is effective for borrowers with a small amount of credit card debt, it simply does not work if you have a significant (\$10,000.00 or more, typically) in credit card debt or if you have other debts. Credit counseling cannot resolve your medical bills, non-credit card balances (broken cell phone contracts, apartment leases, old repossessions, etc.), and of course debts owed for taxes, student loans, and child support. *Simply put, in most situations credit counseling only works for folks with a small amount of credit card debt.*

Bankruptcy will, in the vast majority of cases, give you a fresh start through the *discharge* – a court order that forever eliminates most debts. Wouldn't it be nice to be permanently rid of your creditors so that you can rebuild your life and take care of your family?

**Bankruptcy can permanently eliminate credit cards, medical bills, personal loans, debts from broken leases and contracts, repossession and foreclosure deficiencies, and many other kinds of debt.** While some debts (notably IRS obligations, student loans, and child support) are generally not dischargeable, there are available bankruptcy options to deal with these debts as well – most notably, to set up a payment arrangement without any future interest or penalties.

### **Reason Number Three:** Bankruptcy Can Help You Keep your Assets

Sometimes, creditors want more than your money – they want your house, your car, and your bank account. Depending on the type of debt involved, outside of bankruptcy this is unfortunately a fact of life. What can creditors do to your property?

- Foreclosure – In Texas, if you are in default, home lenders have the power to take your home from you after a fairly short period of time – *without a court order*. Certain other creditors (such as taxing authorities), after filing a lawsuit, may be able to foreclose your home as well.
- Repossession – Your car creditor can generally repossess your vehicle at any time you are in default – *without a court order*. Once repossessed, they can then sell it as soon as seven days later.
- Garnishment & Levy – While garnishment of wages in Texas is generally prohibited (other than for child support and taxes), after getting a judgment creditors can garnish bank accounts and other financial assets and seize personal property assets to be auctioned off to pay the debt.

- Abstract of Judgment – even if creditors can't reach your assets presently, after a court order a judgment can be *abstracted* in the county records, impairing the legal title to your home and other real property. This means, as a practical matter, that it will be difficult to buy, sell, or refinance a home or other real property until the judgment is resolved.

**Bankruptcy not only stops these collection activities– it *protects* your most important property, too.** If you are eligible, Texas law allows you to protect your homestead, a vehicle for each driving-age member of your household, clothing, furniture, jewelry, household goods, retirement accounts, life insurance policies, and even family pets. And while these assets are also generally exempt outside of bankruptcy, only bankruptcy stops the collection activities against your property and allows you to discharge the underlying debts forever so that you will not face a garnishment of your bank accounts or have to deal with a judgment lien years down the road.

In bankruptcy, as long as you continue to make your regular installment payments on your home and car, those assets cannot be foreclosed or repossessed. And even if you are behind on these payments, a payment plan can be established in bankruptcy to catch you up and keep your property.

The next step – give us a call for a free consultation with a licensed attorney. Relief is literally one phone call away!

**Get Creditors Off Your Back**

**Get a Fresh Start**

**Keep your Assets**