

If you are overwhelmed with debt and worried about collection harassment and/or losing your home or vehicle or if you are being sued and your wages garnished, then this book is for you. Learn about all of your bankruptcy options and the specific questions and issues that are most concerning to you. This book is a great first step to help you.

Bankruptcy

We Wrote the Book on It

by Ronald C. Sykustus

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BANKRUPTCY

We Wrote the Book on It

(The Real Story and Concerns People Have Based Upon
Thousands of Cases Our Lawyers Have Handled)



By Attorney Ronald C. Sykstus
and the Bond and Botes team of lawyers

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CHAPTER 11

SHOULD I FILE FOR BANKRUPTCY? IF SO, WHAT TYPE SHOULD I FILE AND HOW CAN IT HELP ME?

The title of this chapter is really a misnomer. The answer is, at least right now, that we don't know and you don't know. As discussed previously, you should really review your entire situation with an objective attorney to determine what, if any, course of action you should take. With that said, this chapter will deal with the broad generalities of whether a person should file for bankruptcy, what type, and how a person can be helped through bankruptcy. There are more nuanced areas of bankruptcy that we will deal with in the next chapter.

Is It Time for You to Consider Filing For Bankruptcy? By Attorney Bradford W. Botes

Many people are unable to pay their bills as they become due but clearly not all of them are candidates for bankruptcy. So when should an individual consider filing for bankruptcy? The truth is that there is no bright line to help make this determination. Each person's situation is different. Here, however, are some of the factors that should be considered in making this determination:

Are you only able to make minimum monthly payments on your credit card bills?

If the answer is yes, then you may be on a treadmill that will be difficult to get off. Minimum payments often cover only the interest that has accrued in the last month and a little bit more. It could take many years for you to pay off what you owe.

Do you have property or belongings that might be lost if you file bankruptcy?

The amount of property that you are able to retain, or claim as exempt, in bankruptcy varies from state to state and should be discussed with a bankruptcy attorney in your area. If, however, you own very little or owe more on what you do own than what it is worth, then it is likely that you would not lose anything if you filed. Even if you do own property that has significant value, there are types of bankruptcy that may allow you to keep what you own.

How much do you owe?

It is not necessary that you owe any certain amount to seek bankruptcy protection. For some people, \$100,000 may be too much debt. For others, it may be as little as \$5,000. How much is too much for any one individual depends upon that person's circumstances. How much you earn, together with the type of debt you owe, are two of many factors that should be considered.

Are you facing a foreclosure, wage garnishment, or repossession?

If the answer to any of these is yes, then your finances are likely already at a point at which you should consult with an attorney. Losing your home, your car, or your wages could be devastating. Bankruptcy protection may be able to stop this from happening. You need to know your options.

How much stress can you deal with?

For many people, the anxiety caused by juggling bills, answering calls from collectors, and opening letters demanding payment can be overwhelming. The resulting stress can cause loss of sleep, an inability

to perform one's job, and tension amongst loved ones. Money problems are at the root of many failed marriages.

The factors above do not need to be considered alone. If you are having difficulty paying your bills, you owe it to yourself to learn all of your options. Don't let either fear or pride keep you from seeking help.

If a person is considering a possible bankruptcy filing, then the question is what type? Attorney Grant McNutt addresses this.

Should I File a Chapter 13 Bankruptcy or a Chapter 7 Bankruptcy? By Attorney Grant McNutt

When most people think about bankruptcy, they think about it in terms of Chapter 7 or "straight bankruptcy" when you just "wipe out" or discharge debts. This fresh start sounds nice; however, this is not always the best answer for many reasons. If it is not the best answer, then should you file a Chapter 13 debt consolidation? Filing a Chapter 13 debt consolidation can help you resolve many issues. It can usually be filed with the court in a matter of days from the first time you meet with an attorney, thereby relieving you of creditor harassment almost immediately in addition to stopping garnishments, lawsuits, repossessions, and foreclosures. It may also be beneficial in actually lowering your monthly outgo of expenses.

Another issue most people don't consider in the process of making the choice between filing Chapter 7 or Chapter 13 is whether they have health insurance. One concern with filing a Chapter 7 bankruptcy is that it may prevent you from declaring bankruptcy or being eligible for another bankruptcy discharge for a longer period of time. If you currently have no health insurance, filing a Chapter 7 could be perilous to your financial future. If you were to suffer an accident or some other medical problem and you are not insured, you will most likely have some enormous medical bills. If you filed a Chapter 7 previously, you would be barred from bankruptcy relief for a longer period of time and would more or less be suffering collection harassment and

possible garnishment from medical bills that you could not get relief from because of the Chapter 7 you filed. This is a valid issue and an issue that is not often discussed; however, it is one that I and the other attorneys here at Bond and Botes do consider when advising our clients, as we want to help you choose the best option to afford you the most long-term financial help and relief.

Attorney Cynthia Lawson addresses five myths about bankruptcy.

Five Myths About Bankruptcy By Attorney Cynthia T. Lawson

Myth #1: I can never get credit again

Filing a bankruptcy is on your credit report for ten years; however, just because a bankruptcy is being reported on your credit report doesn't mean you can never get credit. Usually as soon as you receive a discharge in bankruptcy, you are eligible for loans, and in fact many subprime lenders solicit newly discharged debtors for high-interest credit cards and signature loans because the creditor knows a Chapter 7 can only be filed once every eight years.

Myth #2: I am going to lose my home

All states and the federal law allow persons filing a bankruptcy to protect a certain amount of equity in the home (equity is the difference between what the home is worth and what you owe on it). The federal government allows individuals who can't claim a state's exemption to protect \$250,000 of equity in a home. Tennessee allows between \$5,000 and \$50,000 depending on age and whether you have minor children or custody of a minor child. Alabama's homestead exemption is up to \$5,000 and Mississippi's exemption is up to \$75,000. Even if your attorney believes you have too much equity to protect or exempt, a Chapter 13 may allow you to reduce your debt and still protect your home.

Myth #3: I will lose my vehicle, car, boat, truck, or motorcycle if I file bankruptcy

Generally, as long as you are current on your vehicle loan, and you don't have a lot of equity, your vehicle can be protected if you file a Chapter 7 bankruptcy. If you are behind on payments or have a lot of equity in your vehicle, a Chapter 13 can reduce the interest rate, monthly payment, and allow you to cure what you are behind on the vehicle loan.

Myth #4: I don't have to list my medical bills in my bankruptcy or you can't list medical bills in a bankruptcy

All debts must be listed in a bankruptcy, including medical bills; usually all medical bills are discharged in a bankruptcy. In a Chapter 7 you can voluntarily pay back your favorite doctor if you want to, even after you have discharged that doctor in your bankruptcy. In a Chapter 13 the hospital or doctor will receive whatever you can afford to pay on the medical bill. A hospital receiving federal money cannot refuse you service just because you listed the hospital in your bankruptcy.

Myth #5: I can't discharge a utility bill in bankruptcy

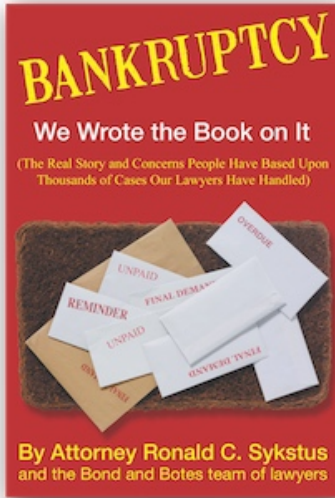
All debts are listed in a bankruptcy filing, so if you are behind on a utility bill, it must be included in the bankruptcy. If your utility company is the only service provider available to you, which most are, the utility company cannot turn off service because you filed their debt in the bankruptcy. The utility company can only require that you pay another reconnection fee and/or security deposit to keep your service from being interrupted. Be sure to tell your attorney if you are behind on a utility bill when you meet with them.

A final issue to address here are the qualifications for bankruptcy. Specifically, does a person have to have a certain amount of debt before he or she qualifies for bankruptcy? Can a person owe too much debt and still qualify for bankruptcy? How much debt should a person have before a bankruptcy is filed? All of these questions are really a case-by-case decision with a person considering the bankruptcy filing with his or her attorney. Attorney Amy Tanner addresses these concerns.

Do I Owe Enough to File for Bankruptcy? (Or Too Much?!) **By Attorney Amy K. Tanner**

Do I owe enough to file for bankruptcy? This is a question that my colleagues and I hear quite often. My initial response is the amount of debt you owe is relative to your financial situation. Many people feel overwhelmed by debt but are concerned that they don't owe enough to consider bankruptcy as an option. However, in many instances a person's credit has been so marred by the bad debts that a bankruptcy filing is a much quicker and less stressful avenue to getting back to a good credit rating. Of course, there is an element of logic or feasibility in determining if your debts are too few or too small to choose a bankruptcy option. There are many reasons to file some form of bankruptcy even if your total amount of debt is small. You may be in fear of garnishment of your wages, repossession, or judgments. A bankruptcy can stop these collection efforts and keep your wages under your control and in your pocket.

Some potential bankruptcy filers may also question if they owe too much to file for bankruptcy. The simple answer to this questions is no. However, there are certain debt limits for filing a Chapter 13 consumer debt consolidation bankruptcy. In order to confirm a Chapter 13 debt consolidation, you cannot include in excess of \$383,175 in unsecured debt (credit cards, medical bills, signature loans, etc.) and \$1,149,525 in secured debts (debts with collateral). Please note that these limitations are effective as of this publication, and the debt limits increase generally once or twice per year. If you exceed these debt limits, don't be discouraged. There are other alternatives to consider. A better option may be a Chapter 7 bankruptcy or fresh start bankruptcy or an "individual" Chapter 11 (reorganization/debt consolidation) bankruptcy.



If you are overwhelmed with debt and worried about collection harassment and/or losing your home or vehicle or if you are being sued and your wages garnished, then this book is for you. Learn about all of your bankruptcy options and the specific questions and issues that are most concerning to you. This book is a great first step to help you.

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