LIFE AFTER KENTUCKY BANKRUPTCY

MYTHS AND MISCONCEPTIONS

Many Reasons Given by Debtors for Failing to Consider Bankruptcy Earlier Boil Down to the Numerous Myths and Misconceptions People Have About Bankruptcy and Life After Bankruptcy

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In the United States, a debtor who is struggling financially and sees no realistic end in sight has the option to seek protection from creditors through bankruptcy. Although bankruptcy is an available option, many debtors hesitate to even consider bankruptcy until all other possible solutions have been exhausted. Frequently, valuable assets are lost along the way. Debtors give numerous reasons for failing to consider bankruptcy. Some reasons center on pride or social stigma; however, many reasons given by debtors for failing to consider bankruptcy earlier boil down to the numerous myths and misconceptions people have about bankruptcy and life after bankruptcy. Debtors are often convinced they will be left homeless and/or will never be able to obtain financing again after bankruptcy. If you are struggling financially but have yet to consider bankruptcy because you are concerned that life will never be the same after bankruptcy, consider the following general information about life after bankruptcy.

Bankruptcy Chapters

Once you decide to file bankruptcy you will need to decide which chapter to use. Individual debtors (or married debtors) can use the following chapters:

- **Chapter 7 –** used primarily by moderate to low income debtors. Requires you to pass the "means test" which compares your income to other similar households in your area. If your income is below the median income for a family of similar size then certain expense standards are applied to determine whether you have disposable income which could be used to pay all or part of your debt. If you have disposable income you may not qualify for a chapter 7. If you qualify then, in a chapter 7, most debts are discharged, or eliminated, at the end of the bankruptcy which usually only takes about four months to complete.
- **Chapter 13 –** used by debtors who do not pass the means test or by debtors who qualify for a chapter 7 bankruptcy but who have valuable non-exempt assets they wish to protect that would be liquidated in a chapter 7 bankruptcy. Chapter 13 requires you to develop a repayment plan to pay back all or part of your debt over an extended period of time, usually five years.
- **Chapter 12 –** similar to a chapter 13 but can only be used by a family farmer or family fisherman.
- **Chapter 11 –** can be used by an individual; however, is more commonly used by a business. Chapter 11 is also used by debtors whose debts exceed the chapter 13 maximum. Operates much the same as a chapter 13.

YOUR ASSETS IN BANKRUPTCY

One concern that debtors have is that they will lose all of their assets when they go through bankruptcy. In most cases this is simply not the case. The manner in which your assets are protected will depend on the type of asset and the chapter you file. In Kentucky, if you file a chapter 7 bankruptcy, you may choose to use the Federal or State exemption laws which set out specifically that property you can protect. You may not, however, mix and match exemptions. An exemption means that the asset is protected from seizure and sale during the bankruptcy. Both the federal and state exemption laws allow you to protect the value of certain assets such as your home, personal property, and retirement accounts. These exemptions are limited however, and change from state to state. If you are able to protect all of your assets using the state or federal exemptions and you qualify to file chapter 7 bankruptcy you could be able to eliminate the majority of your debts and hold on to your hard-earned assets – all within about four months.

If your assets exceed the state or federal exemption amounts, and you wish to retain those assets, you will need to file chapter 13 bankruptcy (or chapter 11 or 12). Because you will pay back some or all of your debts in a chapter 13 bankruptcy the court does not take your assets. Therefore, all of your assets remain safe during the bankruptcy, meaning you will still own them after the bankruptcy.

YOUR CREDIT SCORE AFTER BANKRUPTCY

In the United States a consumer's credit score determines everything from the ability to finance the purchase of a vehicle to the interest rate on a mortgage. In recent years, prospective employers have even begun doing credit checks on prospective employees. There is no way to determine with any degree of accuracy exactly how much your credit score will change during and after bankruptcy; however, some general information may be useful.

First, if you have been struggling financially, chances are good that your credit score has already taken a hit, or is headed that way soon. Therefore, it is usually safe to say that doing nothing *will not* help your credit score in the long run. Filing for bankruptcy *will* help your credit score in the long run as long as you take steps to improve your score post-bankruptcy.

Yes, your credit score will likely go down right after filing for bankruptcy; however, it will typically begin to improve shortly after discharge in a chapter 7 or shortly into your repayment period in a chapter 13. In a chapter 7 your credit score will increase for several reasons including the fact that your debt to income ratio is much better after discharge. Simply discharging debts can cause your credit score to go up.

In a chapter 13 bankruptcy, creditors cannot show you as being delinquent if you are paying according to the plan accepted by the court. Therefore, even if you are technically behind on an account the creditor must show that you are paying on time, thereby increasing your credit score.

Financing Purchases after Bankruptcy

Not only is there life after bankruptcy but it is usually much better than life before bankruptcy! Most debtors find that they are able to obtain credit cards and even financing for a vehicle within about six months of discharge of a chapter 7 bankruptcy provided they have maintained steady employment and continue to take steps to improve their credit rating. Potential creditors see a much improved debt to income ratio and take into consideration that you cannot file bankruptcy again for at least eight years, often making you an attractive borrower to a lender. The same reasoning applies in chapter 13; however, discharge isn’t for three to five years. Although you cannot go out and obtain new credit cards while going through chapter 13, you could potentially finance a vehicle, or even a home, with the court’s approval.

Obtaining a mortgage after bankruptcy is a bit more difficult – but not as difficult as many people believe. The FHA rules require you to wait two years after discharge in a chapter 7 bankruptcy to qualify for financing. A debtor can potentially obtain an FHA mortgage loan while going through chapter 13 bankruptcy if the monthly payments have been made on time for at least 12 months.

How to Improve Life after Bankruptcy

It should be clear by now that life after bankruptcy is usually much better than many people are led to believe. Eliminating debt can provide you with a fresh start financially speaking. What you do with that start is up to you. To make the most of your fresh start, consider the following three post-bankruptcy rules:

1. **Pay bills on time.** The single best thing you can do for yourself after bankruptcy is to pay all your bills on time from now on. Doing so will add to the increase in your credit rating as well as establish good financial habits.
2. **Re-establish credit.** People often make the mistake of shying away from credit after bankruptcy. Of course you need to be careful; however, to

increase your credit score you must re-establish your credit history which requires you to use credit sparingly. A secured credit card if a good option.

3. **Monitor credit.** Watch your credit carefully. Initially, check it to make sure that the debts eliminated in the bankruptcy show as such on your report. After that, keep an eye on it to make sure it is accurate and to see how steps you take are reflected on the report.

If you are struggling financially, consult with an experienced Kentucky bankruptcy attorney as soon as possible before you lose assets trying to find another solution.

NOLO, Kentucky Bankruptcy Exemptions
FHA.com, FHA Loan Rules for Borrowers after Filing Bankruptcy
Bankrate – Bankruptcy Timeline, Rebuilding Credit
Daily Finance, Life after Bankruptcy, Five Steps to Rebuilding Your Credit

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Paul Musselwhite, Carol Blakeley Meinhart, Kimberly Musselwhite Staples, and Robert D. McIntosh are the experienced and knowledgeable attorneys that make up Musselwhite, Meinhart & Staples. With over 50 years of combined experience, they have been serving the legal needs of individuals, individuals in the military and families in Hardin county and all of central Kentucky with pride and dignity. Practicing in bankruptcy cases in Hardin county, central Kentucky and beyond, they are experienced in all types of law.

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