

CHAPTER 13 BANKRUPTCY IN KENTUCKY MYTHS AND MISCONCEPTIONS

*Only an Experienced Kentucky Bankruptcy Attorney
Can Provide Specific Advice Regarding Your Situation;
However, a Better Understanding of Chapter 13 Bankruptcy
May Help Dispel Some of the Myths and Misconceptions
People Often Have about Bankruptcy*



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If you have been struggling financially for some time now with no apparent end in sight it may be time to consider filing for bankruptcy protection. Debtors often hesitate to consider bankruptcy as a viable option

because of the many myths and misconceptions they have about the process and about life after bankruptcy. If you are an individual (or married) debtor you will likely file a chapter 7 or a chapter 13 bankruptcy should you choose to pursue bankruptcy. Often referred to as a “wage earners” bankruptcy, chapter 13 is typically used by debtor who have a moderate to high income and/or who have non-exempt assets they wish to protect. Only an experienced Kentucky bankruptcy attorney can provide specific advice regarding your situation; however, a better understanding of chapter 13 bankruptcy may help dispel some of the myths and misconceptions people often have about bankruptcy.

BANKRUPTCY CHAPTERS

The U.S. Bankruptcy Code is divided into chapters. Many of those chapters provide the rules and regulations for specific types of bankruptcy. For this reason, we refer to bankruptcy in terms of “chapters”. Individual debtors may file using chapter 7, 11, 12, and 13; however, chapter 7 and 13 are the most frequently used chapters. Chapter 11 is more often used by businesses to

reorganize their debt or by an individual debtor whose obligations exceed the chapter 13 limit. Chapter 12 is typically used by family farms.

CHAPTER 7 VS. CHAPTER 13 BANKRUPTCY

Chapter 7 bankruptcy is commonly referred to as a “liquidation” because the bankruptcy Trustee has the ability to take possession of a debtor’s non-exempt assets and “liquidate”, or sell, them with the profits being used to pay creditors. The benefit to using chapter 7 is that at the end of the process, which usually



only takes four to six months, the majority of your debts will be discharged, or eliminated. To file a chapter 7 bankruptcy, however, a debtor must pass the “means test” which compares your income to that of other similarly situated debtors in your geographic area. If your income is at or below the median for the area you

may file a chapter 7 bankruptcy. If not, you must use another chapter. Typically, this means a chapter 13 bankruptcy.

Chapter 13 is referred to as a “wage-earner” bankruptcy because it is most often used by debtors with moderate to high income. In addition, if a debtor who qualifies to file under chapter 7 has valuable, non-exempt assets that he or she

does not wish to surrender to the Trustee, chapter 13 is the only option. In a chapter 13 bankruptcy, your assets are safe from liquidation; however, you will need to enter into a repayment plan that pays back the majority of your debts over an extended period of time, usually three to five years.

CHAPTER 13 REPAYMENT PLAN

In a chapter 13 bankruptcy you and your attorney will need to develop and submit a repayment plan to the court. To do this, you will need to categorize all of your debts and determine your monthly income. Debts fall into the following categories:

- **Administrative and Priority Debts** –these debts must be paid in full and include things such as court filing fees, Trustee and attorney fees, delinquent alimony and child support, most tax debts, and debts owed to employees.
- **Secured Debts** –delinquent secured debts must be paid in full if you plan to keep the collateral. These debts include things such as your mortgage loan or vehicle loan.
- **Unsecured Debts** –all other debts are unsecured debt. These creditors may receive a portion of the debt owed or may receive nothing, depending on how much disposable income is left after the first two categories of debts are paid.

At the successful end of your repayment plan period, unsecured debts are usually discharged. You may even be able to turn a secured mortgage debt into an unsecured debt, often referred to as “lien stripping”. If your home is now worth less than what you owe on a first mortgage, a second mortgage may become unsecured, making it eligible for discharge.

BENEFITS TO CHAPTER 13 BANKRUPTCY

Contrary to what many people believe, there are many benefits to filing for bankruptcy protection. For most debtors, both their financial situation and their credit rating are significantly better not long after filing a chapter 13 bankruptcy for the following reasons:

- **Automatic Stay** –an automatic stay is entered immediately after you file for bankruptcy protection. The stay orders all creditors to stop all efforts at collecting on a debt, including things such as foreclosure or repossession.
- **Lower monthly payments** –during your repayment plan period you will not be required to pay out more each month than you can afford to pay.
- **Elimination of some debts** –at the end of the repayment plan period, some debts will be eliminated completely while others will be paid off or at least current.
- **Improved credit rating** – as long as you abide by the terms of the repayment plan, creditors cannot report you as delinquent for the duration of the repayment period. By the end, your credit rating should be significantly improved because you have eliminated some debt and have made payments on time for several years.

If you have specific questions or concerns about your situation or about the bankruptcy process in general, consult with an experienced [Kentucky bankruptcy attorney](#) right away.

United States Courts, [Chapter 13](#)

Fox Business, [Chapter 13 Bankruptcy: How It Works](#)

NOLO, [An Overview of Chapter 13 Bankruptcy](#)

About the Author

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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