

# Bankruptcy

Many people today are facing financial hardships. This can be a scary and stressful time to get through. It is important to consider all of the options available to you to resolve the debt and get back on the right path financially. Bankruptcy can be a quick and effective way to get you back moving in the right direction.

There are quite a few misconceptions about bankruptcy, and it has been considered the black sheep to resolving financial problems for a long time. However, this is not even close to accurate. In reality close to 1 – 1.5 million Americans file for bankruptcy each year. This option creates a safe haven for those who can no longer meet their debt obligations. No one looks at bankruptcy enthusiastically, but when it becomes the only choice, intelligent financial decision-making can save you in this time of crisis.

Bankruptcy is not a financial death sentence. It is a path toward rebuilding your credit. However, as credit remains a mystery to many, it is important to have guidance and answers as you continue through the process. An experienced attorney is essential to ensure you have the means to restore your credit score. It is common for credit scores to drop immediately after the bankruptcy. This can cause stress and make it difficult to obtain a loan in the future. This report is designed to answer a few questions regarding the ache of credit scores following bankruptcy to provide some background before making the decision to file.

## #1 The secret to knowing if your credit score will go up after filing bankruptcy?

Just as there is no real secret pill to lose weight, there is no easy secret to know if your credit score will be restored after filing bankruptcy. There can be a dramatic shift in your score after the bankruptcy if you had a stronger credit score to start with, usually 650 or greater. If the score is low to start with there will not be as much of a noticeable decrease. It is possible to use some credit reporting tools to get an estimation of what the decrease will be, as well as the estimated 12 month post-bankruptcy score.

It is a common myth that your credit score will stay low for seven to ten years following the filing of the bankruptcy. This is simply not true. The seven to ten year period is how long the actual notation of the Bankruptcy Filing as a public record will stay on your credit report. In fact, if you are diligent in your efforts to rebuild your credit, it is entirely possible to be back in the 700s within two years from the filing of a bankruptcy. This includes knowing your current score, using a credit card wisely by repaying it in full each month, and staying vigilant to notice changes in your score.

An experienced bankruptcy attorney can help guide you on how to go about re-establishing credit post-bankruptcy as well as how to monitor your credit to make sure that none of the debts included in the bankruptcy comes back to detrimentally impact your score, which is illegal once the case is filed.

## #2 How long until you can buy a house after a bankruptcy?

A bankruptcy will usually be erased completely from your credit score in 7-10 years. However, you can still apply for a home loan with the appropriate steps. Most professionals suggest that you wait at least 2 years before applying for a home loan. This gives appropriate time for your credit to begin to show improvement and successful payments. During this time, you can begin using a credit card carefully and completely pay it off each month to increase your score.

There are other factors that may play in to this determination. Most mortgage companies consider 401k and retirement plan assets as positive factors toward repayment. Obviously, a large down payment does not hurt either. Likewise, it will help if you can show a good debt-to-income ratio. With these factors in mind, a person will likely be able to get a strong mortgage deal in 24 months following a bankruptcy.

## #3 Is the information published publicly?

Bankruptcy records are technically considered “public record.” However, this does not mean they will be widespread public knowledge. Bankruptcy courts use a system called PACER (Public Access to Court Electronic Records) to provide people with the ability to look up case and docket information. This public sphere for the courts ensures that judges act within their proper legal bounds and the court system remains accountable.

Even though bankruptcy proceedings are searchable, in order for someone to see you have gone bankrupt, they would have to actively seek out your name. Therefore, the only people seeing this information will be those seeking your credit information for loans. That means that those seeking your information will usually be those you have already approved to look to ensure you can obtain a loan.

Know exactly what you are leasing and ensure that the lease reflects your knowledge

## #4 Will I lose my house?

During bankruptcy, your assets are collected in what is called a bankruptcy estate. The trustee, if you file a Chapter 7 case does have the power to sell your assets and divide the proceeds to your creditors. Your home, however, may fit into what is called a “homestead exemption.” This exemption is in place to protect the equity you have in your home. In Colorado, you can exempt up to \$75,000 of your home (\$105,000 if you, your spouse, or a dependant is disabled or 60+ years old). This means that if you have \$55,000 in equity, you can use the exemption to protect your entire equity. If you have too much equity in your home, over the homestead exemption, this does not mean you are going to lose your house. If you did stay in a Chapter 7 there is a chance the Trustee might allow you to pay out the equity in a lump sum, but they do have the authority to sell the property if they chose to. You could also have the option to file a Chapter 13 bankruptcy and essentially “pay back” the equity over the exemption over 36-60 months if you didn’t want to risk it being sold or could not otherwise afford a lump sum payment of the equity to the Chapter 7 Trustee. This money paid into the Chapter 13 will go toward paying off some of your other unsecured debt.

Questions still remain. Can I double my homestead exemption if I am married and filing jointly? Will this cover my mobile home? What if I am the child or spouse of a deceased homeowner? These and any other questions will best be answered by a trained and experienced attorney who can guide you to ensuring you do not lose your home in the process.

## #5 Will I lose my car?

Like the exemption described above for your home, there is a similar exemption in place for car owners. The most important fact here is that if you do not own your car, or you are not currently making payments, you cannot keep your car even if it does fit in an exemption. Therefore, it is important that you stay up to date on your car payment if you plan to keep it.

You first must determine how much equity is in your car. If you own your car with no loan, the equity in your car is its total fair market value. If you do have a loan, equity is the total fair market value minus the amount left on your loan. Finally, if you have leased a vehicle or for some other reason have no other ownership rights, you have no equity to defend. If you have no equity, your car cannot be sold, but the lender may repossess your car. In Colorado, an individual can exempt \$5,000 in equity (\$10,000 if you, your spouse, or a dependant is disabled or 60+ years old).

Just as if you have equity in your car over the allowed exemption, you can use a Chapter 13 bankruptcy to “protect” the car and pay back the equity through the bankruptcy.

## #6 Will I lose my retirement account?

For the most part, Congress has provided an exemption to allow you to keep your retirement plans after filing Chapter 7 or Chapter 13 bankruptcy. However, this is not always the case. The general rule is that any Employee Retirement Income Security Act (ERISA) approved plans are exempt. This includes IRAs, 403(b)s, and 401(k)s. Usually, the exemption amount is unlimited. This means the whole retirement account is protected. In other words, the amount in these accounts will not affect how much you must pay creditors. These general rules do, however, have certain limitations.

With certain IRAs, there is a limit to how much can be exempted per person. The current limit is \$1,245,475. In other words, if you have more than this in your combined IRA accounts, it is possible any excess can be used to pay off creditors. Further, there are limitations to retirement accounts that are paid in to your account as income. These accounts are not considered exempt. If the trustee can take some of your income paying retirement account without removing your ability to support yourself, they will. These limitations can be confusing. Don't allow yourself to fall into a bind and lose your hard earned cash. An attorney will be by your side to discuss your accounts and which ones are potentially in danger, or alternatively whether bankruptcy makes financial sense with your situation.

## #7 Will creditors still be able to garnish my paycheck after I file bankruptcy?

As you may already know, creditors are often able to gain access to your wages should you discontinue payment. Filing for bankruptcy creates an automatic stay that stops these wage garnishments. Of course, this won't stop court appointed payments such as child support; however, it may stop creditors from taking your hard earned salary. This automatic stay does, however, end if your case is dismissed. This gives the creditor the right to continue garnishing your wages.

What about garnished wages that have already been taken? If the wages taken in the 90 days before the bankruptcy case filed by an unsecured creditor total over \$600 then a Chapter 7 Trustee will usually seek to recover those funds to distribute evenly among the rest of your creditors, so that some monies are paid to those debts you are declaring bankruptcy on. This does not mean that the creditor has the right to come after you again for those funds. If the Trustee chooses not to pursue the collection of the money back from the creditor, anything taken before the case was filed cannot be recovered. If there is a garnishment after the case has already been filed, then you can seek to have that returned to you. This can be complicated so it is recommended to have an attorney to guide you on how to obtain those back.

## #8 Do people ever recover from a bankruptcy?

Bankruptcy is an overwhelming experience. However, it is important to remember that there is a life after bankruptcy. Bankruptcy is a tool to be used to get a person back on his or her feet. It is not meant to destroy but to provide an opportunity to build again. There are many things a person can do to rejuvenate their credit and find themselves back on their feet in a few short years after filing bankruptcy.

First, it is important to let go of the fact that you had to file. No one is going to be actively seeking your information unless they are looking to give you a loan. Most of the time, you will have given that person permission beforehand. Next, most professionals suggest using a small credit card to make one purchase a month and pay off the entire amount each month so you don't accrue any interest charges. This will begin to build your credit piece by piece. Next, it is important to keep a vigilant eye on your credit score to understand what is happening with its growth. Many free websites allow you to monitor your score without price or penalty. A bankruptcy can get you back on the road to financial freedom. It is amazing how much stress is alleviated once the decision is made to use the bankruptcy to get out from underneath the burden on debt.

## #9 How do I know if I should file a bankruptcy?

It is important to meet with a professional attorney to consider all of your debt resolution options. Too often individuals deplete retirement or other funds that might otherwise be able to be protected and then come to find they could have saved them by filing a bankruptcy.

The first question is to determine whether bankruptcy will actually help you. If you have the ability to work with your creditors to work out payments plans, loan forgiveness, or other methods of payment those may be better options. Many creditors are willing to do this as they end up in a better place in the end as well. Further, a person must ask whether the debts they are struggling to pay off can be discharged. Many such debts are considered priority obligations and cannot be discharged by the court.

The next important factor to consider is whether you even qualify for Chapter 13 or Chapter 7 bankruptcy. In Chapter 7, a person usually must show that their income is low enough to qualify. Those with income under the state median typically automatically qualify. Otherwise, your disposable income is compared to your debts to determine if you can pay for a portion of them. The maximum amount here can change based on the state, and even by the city. Therefore, it is important to have an experienced attorney by your side to help you understand your local rules. In Chapter 13, only individuals can file for bankruptcy. Therefore, businesses can only use this route if they file as an individual. Typically you will have to write up a plan wherein your income will be compared to your current debt to see if you have sufficient ability to pay them off in due time. You will also be required to show that you are current on your income taxes. If this all works out, a court may allow you to follow through with your payment plan.

Even if you qualify, several other important question must be addressed before you go and file. For example, what property do you currently own? Could this property be taken and sold in Chapter 7 bankruptcy, or could you be required to pay the value of the property that does not fit in an exemption in Chapter 13 bankruptcy? Do you have a home that may be foreclosed on? Do you have a car that may be repossessed? You may have a lawsuit pending wherein a creditor may obtain rights to garnish your wages. You will have to ask if an automatic stay on these garnishments would help. In any case, an experienced attorney can help you with this difficult decision to ensure that you make the right choice.

## #10 How can I avoid going to jail over my debts?

Usually, no one is sent to jail from not paying debts. That is a thing of the past. However, there are certain things on top of not paying debt that land people behind bars. The first, and perhaps most common, is when people intentionally violate a court order. If the court has ordered the payment of certain debts or child support, and you disobey this order, you may face jail time in contempt. However, most judges want to see you have the ability to pay your debts, which is difficult when spending time in jail. Contempt will usually only put you in jail if you intentionally do not pay in order to send a message. Perhaps the more obvious way to end up in jail is to stop paying income taxes. This is one payment that should not be missed. Finally, if you are involved with a debtor investigation, and you do not show up as ordered, you can be thrown in jail to insure your cooperation. In short, it is very unlikely you will end up in jail regardless of nonpayment if you are diligent in obeying other laws.

## #11 How long does a bankruptcy take?

Like most court proceedings, bankruptcy can tend to take some time. However, depending on which type of bankruptcy you file, the duration will be very different. Therefore, it is important to know ahead of time whether you can survive a process that may take up to five years, or if you need something to be done in a few months.

In Chapter 7 bankruptcy, a typical timeframe is 90 to 120 days from the filing of the case to the granting of the discharge of your debts.

In Chapter 13 bankruptcy, the process will take anywhere from 3 to 5 years depending on your income and how much the monthly payments amount to. In this time, your attorney will start by helping you draft a petition to the court. Next, you will meet with the bankruptcy trustee to discuss a payment plan to pay off your creditors in three to five years. The remaining time will be spent paying the monthly payments until the creditors no longer have a hold on you. Therefore, Chapter 13 provides debt relief that may be more attractive to future lenders.

Many people assume that they cannot get financial recovery until they get their discharge. Just because a Chapter 13 bankruptcy takes 3 to 5 years to obtain a discharge this does not mean you will have bad credit for that full time, nor does it mean that you will not be able to get financed for a car or a loan during that time.

## #12 Ten famous people that filed bankruptcy

1. **Henry Ford** America's businessman wasn't always financially savvy. His first attempt at manufacturing vehicles resulted in the need to file bankruptcy. Next, his second endeavor, the Henry Ford Company resulted in bankruptcy because too few cars were produced. Even so, this company ended up successfully recovering and changing its name to Cadillac Automotive.
2. **Burt Reynolds** Although very successful in the mid 90s, this iconic actor was forced into bankruptcy after losing control of his purchases. He quickly emerged from bankruptcy in 1998.
3. **Walt Disney** His first attempt at Disney studios was not quite as successful as it is now. However, 1928 brought the creation of Mickey Mouse and a save from the first bankruptcy.
4. **Terrell Owens** After making \$80 million in 15 years of playing for the NFL, TO found himself in financial trouble after advisors led him to too many risky ventures. TO filed bankruptcy in 2012.
5. **Milton Hershey** It took two failed attempts in the sweets industry before Milton Hershey turned around and perfected the Hershey's recipe.
6. **Stephen Baldwin** This actor filed for bankruptcy in 2009 after defaulting on over \$800,000 in mortgage debts. This did not stop him from successfully appearing in several movies since.

7. **Donald Trump** Apprentice founder Donald Trump has even seen bankruptcy in his days. Although he states it was used as a financing tactic, Trump has fought through four bankrupt casinos.
8. **Willie Nelson** Even the country singer found himself in dire straits when the government seized his records in 1997. Willie had to pay back over \$16 million, but he jumped back with a commercial acting gig and a new album.
9. **Mike Tyson** The boxer and actor made \$300 million, but after some new cars and a divorce he filed bankruptcy in 2003. Tyson continues to act in order to better his financial situation.
10. **MC Hammer** The singer bought a \$1 million mansion in the 90s after “Can’t Touch This” took off. In 1996, however, he filed bankruptcy after he couldn’t stop the spending. However, he came back as a pastor living on a ranch in California.

### #13 Will I ever get credit again?

Bankruptcy should be viewed as a tool. It is not a sentence. Although it does have several side effects, it is a tool that if used properly can help someone get back on their feet in just a few short years. While it does negatively impact your credit score after filing, your credit score can be back into the 700s two years after filing. You will actually begin to receive lots of offers for credit cards and car loans once the bankruptcy is filed. If you manage the use of credit responsibly it will leave you in a better credit and financial position than when you started.

### #14 Why debt settlement will cost you more money and make your life miserable

Often you will see ads for an alternative to bankruptcy called debt settlement. It may seem very favorable at face value. You simply pay the debt settlement company, and they pay your creditors. However, going into this without understanding its implications is not a wise idea. There are both credit score and tax implications.

First off, you should understand the way a debt settlement company operates. The company will usually have you start making monthly installments to them at a reduced payment. They will advise you to stop paying your creditors, but they will not start paying the creditors until your account with them reaches a certain amount. Therefore, your debts with those creditors are left unpaid and will quickly hit your credit. Depending on the length of this delayed pay period, you may find that your credit score takes a significant hit. You must also understand that no company can guarantee that all of your creditors will agree to a reduced amount to settle the obligation. If not all of your debts are encompassed under the agreement, those not included can seek to enforce the obligation against you by filing a lawsuit and potentially garnishing wages or bank accounts.

Next, the tax implications must also be understood. The IRS considers forgiven debts as income and requires income taxes on them. Creditors will send you a Form 1099-C to report your cancelled debts with the IRS. Even if you do not receive this form, you are required to include the information in your tax return. Therefore, with debt settlement you may find yourself in more debt to the IRS with a much lower credit score.

### #15 Can I get rid of my tax debt?

Most tax debt cannot be discharged in bankruptcy. Chapter 13 bankruptcy will require you to finish paying the amount in a new payment plan. Chapter 7 will leave you with the same amount due in the end. Even so, if you can satisfy several elements you may be able to discharge your tax debt. The taxes must be income taxes, the tax year must be over 3 years old, the tax returns must have been filed two years prior to the filing of the bankruptcy, and there must have been no assessments in the last 240 days. In Colorado, a recent court case has come down that if there was a substitute for return filed on your behalf by the IRS, the debts can never be discharged. If you can satisfy these elements, the court may discharge these debts for either type of bankruptcy. In Chapter 13, however, you may still be required to pay these taxes if they are considered a priority debt. An experienced attorney can be there to help you know whether your tax debt would qualify.

## #16 Does Bankruptcy help with student loan relief?

It is very difficult to discharge student loans. However, if a person can show that not discharging their loans would cause “undue hardship” they may be able to reach this goal. What is undue hardship? How bad does your situation have to be? Most courts use three elements for determining undue hardship: (1) An inability to maintain a “minimal standard of living” for self and dependents, (2) evidence that this condition will remain for the duration of the repayment period, and (3) good-faith efforts were made to repay the loan. What evidence do you need to prove these elements? How many successful payments will a court consider a “good faith effort?” What will the court feel is a minimal standard of living? Your attorney will know best whether your student debt stands a chance.

## #17 Can I get rid of my divorce debt?

Divorce is difficult enough without adding bankruptcy to the mix. However, timing can be an important factor in this decision. Many may file divorce without considering the implications of not filing bankruptcy first. Filing jointly for bankruptcy may allow you to double your exemption amounts. It also may save you money on filing fees as you only have to file once. So the first decision to make is whether to file bankruptcy before or after the divorce.

The second question is whether the debt you want to discharge is a “domestic support obligation.” The law does not allow you to discharge a debt that can fit into this category. These debts are usually maintenance (alimony) and child support requirements. If you are considering whether you can avoid this debt, bankruptcy will not discharge your responsibilities.

Next, even if your debt is not a domestic support obligation, you may still not be able to discharge the debt if it is to a spouse, former spouse, or child. If one such debt is not a domestic support obligation, but it is incurred in the course of a divorce or separation (i.e. a property division) you will likely not be able to discharge the debt. However, this exception to discharge does not apply in Chapter 13 bankruptcy. Therefore, Chapter 13 bankruptcy may be the only option to discharge such a debt. You will want to discuss these concerns with an attorney who can help you determine whether and how your divorce debts can be relieved.

## #18 Can I get rid of business debt?

It is important to note here that Chapter 7 bankruptcy discharges personal liability. Thus, it is possible that creditors will still be able to come after your LLC or corporation regardless of the answer to this question. However, many debts incurred in the course of running a business can be discharged. This includes supplier debts, credit card bills, and personal loans. Even so, if you have secured debts providing your property as collateral, these debts will not be discharged regardless of bankruptcy. A person can file for business bankruptcy under Chapter 7; however, this requires an attorney to file for you. If you are concerned about losing your business, it may be smarter to file Chapter 13 bankruptcy. Under Chapter 13, a repayment (rather than a liquidation) plan may allow you to handle some of your larger tax debts and other liabilities without losing your company. In any case, an attorney is necessary here to ensure you end up in a position with your business to be able to come back after the credit storm subsides.

## #19 Can I prevent a foreclosure?

An automatic stay is put in place immediately after you file Chapter 7 or 13 bankruptcy. That automatic stay will serve to postpone a sale of your home at the next auction. That delay is enforced by law and can last anywhere up to four months. However, it can be shortened with a motion to lift the stay. Of course, you will still have the time until the motion to lift the stay is resolved. Also, if your state requires advanced notice, the automatic stay will not discontinue the elapsed time. Therefore, if you have notice of foreclosure, you cannot simply wait out the time and file bankruptcy just before auction. The court will simply lift the stay and allow the auction to continue.

Once again, Chapter 13 bankruptcy may be the safest option here. Chapter 13 gives you an opportunity to pay off those late payments that you could not cover. You will propose a plan to pay them off in a lengthened period of time, and if you follow the plan, your home will remain safely in your possession.

## #20 Can I slow down the foreclosure process to work on a short sale?

As more and more people lose their homes to foreclosure, it is important to know your options. A short sale may act to mitigate your liability to your creditor on a mortgage. A short sale occurs when you sell your home for less than the balance of debts secured by liens against your property. Typically a lender will not immediately begin the foreclosure process after a missed payment. This means you may have about three to four missed payments to decide if you want to engage in a short sale before bankruptcy is ever a consideration. If you have not been given enough time here, bankruptcy will likely only serve to stall the foreclosure process until your mortgage creditor can lift the stay and auction off your home. Therefore, it is risky to depend on bankruptcy to provide you time, but it may help. It is crucial that you discuss these options with an attorney before making a decision that could end with you losing your home and destroying your credit.

## #21 How will filing bankruptcy affect my spouse or significant other?

This question may require a different answer depending on where you live. There are common law states, and there are community property states. Most states are considered common law states, including Colorado. In common law states, if your name is on a deed, you own that property. If you and your spouse both share a name on the deed or title, you own a half interest in the property. If there is no title, you own it if you can prove you paid for it. In community property states, both spouses own an equal share of most property acquired during the marriage regardless of whose name is on what deed.

In bankruptcy, several problems may arise in common law states. First, if property with joint ownership cannot be easily divided, it may be sold and half of the proceeds applied to your debts. Of course, the trustee must show here that the benefit of selling this property would outweigh the detriment to your spouse. Second, although your debts may be discharged, this does not affect how much your spouse is now responsible for. Thus, he or she may be required to pay off any joint debts now without the help of your combined salary.

## #22 Will filing bankruptcy make the creditors stop calling and harassing me?

The automatic stay following a bankruptcy is a protective device to discontinue all actions from your creditors in attempting to collect a debt. Thus, phone calls from your creditors will discontinue. What if a creditor doesn't follow this order and calls anyway? The first step is to simply tell the creditor that you have filed bankruptcy. It is possible they are simply unaware that you have begun this process. If the calls persist, the next step is to notify your bankruptcy attorney.

An experienced attorney will help you to see that your creditor is sanctioned for harassing you against an automatic stay. This requires a showing that they violated the order willfully. In other words, the collector must know of the bankruptcy case, and either ignore it or fail to correct its actions after learning about it. The creditor must act intentionally, and the automatic stay must

still be in place. If your attorney can prove these elements, your creditor will be sanctioned and required to discontinue calls to collect from you. There is the ability to collect at least \$1,000, but if you suffered actual damages such as a medical episode because of it, you can also ask for punitive damages from the court which can be quite substantial.

### #23 Should I run up my credit card debt before filing bankruptcy?

No. Almost all credit card debt can be discharged in a bankruptcy. The only exception is for debt that has been accrued with fraudulent intent. Making credit card purchases just before filing bankruptcy with knowledge you will soon file is fraudulent. The court will likely see what has been done, and you will not have the debts discharged. Most of your creditors will have attorneys who will see this as an immediate red flag. All they must do is file a non-dischargeability complaint and you will be responsible for the repayment of that debt. Of course, you may try to show that you did not have intent to defraud the creditor. However, if your ledger shows luxury or high price items, the court will see through those purchases and consider fraud presumed. You may, of course, get lucky and the creditor may not review your credit purchases. This, however, is highly unlikely and you should not count on their failure.

### #24 Can I transfer assets before filing bankruptcy?

When you file for bankruptcy, a trustee is sometimes allowed to recover any transferred property as part of the bankruptcy estate. Of course, like most answers to legal questions, this depends on the circumstances. When exactly was the transfer made? How were the proceeds spent? Why did you make the transfer? Was the property exempt?

If your property is exempt, there is really no “bad faith” reason for you to transfer or sell that property. Exempt property cannot be used to settle your debts, so you can keep that property after bankruptcy. However, it is important that you get the fair value price for this property. If you did not, it may be obvious you were just trying to dump the property to hide it from the trustee. Thus, any planning done before bankruptcy in deciding to sell or transfer assets should be done with the consultation of an experienced attorney.

### #25 Is filing bankruptcy expensive?

Filing anything in court can be an expensive process. Filing fees alone can make bankruptcy an unattractive option. Chapter 7 filing fees total to \$335 and Chapter 13 costs \$310. These payments can be made in installments with permission from the court. In rare circumstances, the court may even waive the fee entirely for indigent individuals. This means you must make less than 150% of the poverty line, and you must be unable to make the necessary installments.

You will also be required to receive credit counseling within six months. This can cost around \$50 dollars per class, but there are places that do offer it cheaper.

You will also have the fees of an attorney if you choose to hire one. The cost of an attorney is dependent upon your specific circumstances and what Chapter of bankruptcy it is determined is best for you. There are clear advantages to hiring an attorney so you do not end up losing any of your property or otherwise doing anything to potentially impact your ability for a discharge.

## #26 What if someone else is also on my debt, will they have to file or be affected if I do so alone?

Often you will find that you have a cosigner on many of your loans to ensure a lower interest rate. Bankruptcy can affect these individuals. Chapter 7 and 13 bankruptcy either discharges personal debts or allows longer repayment of personal debts. Therefore, an automatic stay in Chapter 7 may protect you from those harassing creditors, but it will not stop them from calling your guarantors. What can you do to protect them? First, You can choose to give up the benefit of a discharge and accept personal liability. This is called reaffirming your debts. Second, Chapter 13 bankruptcy may provide more protection. In Chapter 13, the automatic stay will apply to your guarantors as well as protecting you so long as you continue with your repayment plan. Of course, as stated above, your creditors may be able to lift the automatic stay in certain circumstances. It is strongly advised that you seek the advice of a lawyer to ensure your parents, siblings, or other guarantors are not hurt through your filing personal bankruptcy.

## #27 Will they send someone out to my house to look through all of my things?

Although this is very unlikely, there are circumstances where a trustee may be required to visit your home. Typically this is required if you fail to report certain assets or properly provide values to your property. If you are honest, and you properly report your assets you will protect yourself from such an intrusion. A trustee will never, of course, show up unannounced. They must set a time with you, but you must also show up as requested. Trustees will also not be allowed to take things from your home without your permission. Even so, an attorney can be by your side to protect you from these intrusions. Your attorney will help you to make certain you have appropriately and accurately reported your assets so no one will need to come to your home.

## #28 Can bankruptcy help prevent or slow down an eviction from an apartment?

The automatic stay described above again may apply to protect you from, or at least delay, an eviction. However, if a Landlord has already received a judgment for possession in unlawful detainer, you may be too late. Some states may be kind enough to allow you to cure your rent default. However, it is likely you will not be able to stop eviction after judgment. Of course, if you file bankruptcy before judgment, the creditor (your landlord) will have to discontinue any efforts to obtain your payments. This includes eviction and possession proceedings.

### Conclusion

In conclusion, there is much to consider in determining if Bankruptcy is the right debt relief option for you. If used correctly, it can be a tool in your hand to repair your credit and get back on your feet. If you live in Castle Rock, Douglas County, Highlands Ranch, Jefferson County, or elsewhere in the south-metro area of Denver, call (303)-688-0944 or go online to [www.robinsonandhenry.com](http://www.robinsonandhenry.com) today to schedule a free consultation with an experienced attorney at Robinson & Henry, P.C.

#### Castle Rock Office

900 Castleton Rd  
Ste 200  
Castle Rock, CO 80109-3307  
**(303) 688-0944**

#### Denver Office

7535 East Hampden Avenue  
Suite 250  
Denver, CO 80231  
**(720) 707-4024**

#### Colorado Springs Office

1755 Telstar Dr  
Suite 300  
Colorado Springs, CO 80920  
**(719) 632-1919**

Robinson & Henry, P.C., is a Debt Relief Agency. We help people file for bankruptcy relief under the Bankruptcy Code. No information contained in this legal guide should be construed as legal advice, and no attorney-client relationship is formed by viewing this information. If you do not wish to receive further communications from Robinson & Henry, please email [megan@robinsonandhenry.com](mailto:megan@robinsonandhenry.com) or call (303) 688-0944 and ask for Megan Hurt. Attorney Bill Henry is responsible for the content of this information. 900 Castleton Road, Ste. 200, Castle Rock, CO 80109.