



Bankruptcy

You want to get your money back for a product or service you were not satisfied with, but the company has gone bankrupt.

What can you do?

How does bankruptcy work?

Bankruptcy is a legal procedure in federal court that aims to give debtors (those who owe the money) a financial "fresh start" from troublesome debt. This is done through the bankruptcy discharge process which determines specific debts the debtor will be released from and prohibits creditors from trying to collect on those debts.

An individual or company may file a petition for bankruptcy with a United States bankruptcy court. However, a judge can rule that an individual or business is not eligible to file or may need to file under a different chapter due to certain criteria or restrictions. The petition includes a set of papers that list all debts, property, and other specific information. Most people who file for bankruptcy hire a lawyer because this is a very complicated area of law.

When individuals or companies file for bankruptcy, it can protect them from creditors in the following ways:

- New lawsuits against the individual or company may not be filed and pending lawsuits that are outside the bankruptcy court will generally be stopped pending the outcome of the bankruptcy.
- Creditors must stop attempting to collect on unpaid bills the debtor was released from.

Once the bankruptcy court reviews the case, it decides how the debts will be paid. The amount the court decides an individual or company is required to pay must be accepted by creditors, even if the amount is less than the full amount of money owed.

Types of bankruptcy

There are six types of bankruptcy cases that can be filed. They are referred to as chapters. The three most common chapters are Chapter 7, Chapter 11, and Chapter 13. Each chapter has different requirements and serves a different purpose.



Chapter 7 – Liquidations

Chapter 7, known as "liquidation bankruptcy," is for individuals, as well as businesses of any size. It involves the selling of assets to pay off debts. It is often used by companies that want to go completely out of business or liquidate all their assets. It is usually the easiest and fastest way to settle debts.

In a Chapter 7 case, state law determines which possessions an individual or company is allowed to keep, if any. All other assets are turned over to a trustee, who sells them to pay as many of the debts as possible. If a company starts up again after filing Chapter 7 bankruptcy, even under another name, it will still be liable for all its old debts.

Chapter 9 – Municipality

Chapter 9 allows only municipalities, (i.e. cities, towns, counties, and school districts) to file bankruptcy under this chapter. Chapter 9 is like Chapter 11, however there is no provision for in law for the liquidation of assets of the municipality and distribution of proceeds to pay debts, and the bankruptcy court is not as active in managing a municipal bankruptcy case.

Chapter 11 – Reorganizations

Chapter 11 is the alternative for individuals with debts too large for Chapter 13 and for businesses who want to keep their business operating while paying their debts. It is used by individuals and companies that want to keep control of their assets while they try to reorganize or liquidate, rather than turning them over to a trustee.

The business must provide the court with a reorganization plan. Creditors are often given a chance to vote on whether to accept the plan or not. However, even if some disagree, the court may still approve the plan if it meets certain standards.

During chapter 11 bankruptcy, the company continues to manage day-to-day activities, but the bankruptcy court must approve all significant business decisions. This allows the business to remain in operation and gives them a chance to again become profitable.

Chapter 12 – Family Farmer/Fisherman Debt Adjustment

The process of Chapter 12 is like that of Chapter 13 except only family farmers and family fishermen with a regular income can file under this chapter. Chapter 12 allows the debtor to propose a plan to repay their debts over a period not to exceed three years. Filing under this chapter allows family farmers and fishermen to still operate their business while the repayment plan is being carried out.

Chapter 13 – Individual Debt Adjustment

In a Chapter 13 bankruptcy, an individual (the debtor) does not give up their current assets or property to pay debts. They use future income to pay creditors over time by creating a repayment plan, usually for three to five years. This gives them a chance to continue to work and get back on their feet.

Individuals who are a sole proprietor or a partner in a business can include their business assets in the plan.

To file under chapter 13, individuals must have a regular income and owe less than \$1,580,125 in secured debt or debt that is collateral, like a house and less than \$526,700 in unsecured debt, such as medical bills or credit card debt.

Chapter 15 – Ancillary and Cross-Border cases

Chapter 15 is a newer chapter that handles cases involving a debtor, assets, claimants, and other interested parties from more than one country. Generally, chapter 15 promotes cooperation between the US Bankruptcy courts and courts or authorities in other countries.

Where do consumers stand?

If you purchased an item or service from a company that has filed for bankruptcy and want to try to recover

some money, you will have to find out which U.S. bankruptcy court the company has filed its bankruptcy petition in. You might start by contacting the bankruptcy court nearest to where the business has its main office.

The bankruptcy court has sole jurisdiction over refunds.

You must file a proof of claim form with the bankruptcy court to receive consideration for any possible payment of your claim. You can download a proof of claim form at:

uscourts.gov/Forms/bankruptcy-Forms/proof-claim

To file a proof of claim form, you will need the bankruptcy case number. You can obtain the bankruptcy case number by calling the Voice Case Information System (VCIS) at (866) 222-8029. VCIS is a free service and is available 24 hours/day, 7 days/week

Below is the information for the U.S. bankruptcy courts located in Wisconsin:

Eastern District of Wisconsin

www.wied.uscourts.gov

Main Office - Milwaukee United States Courthouse & Federal Building
517 E Wisconsin Ave, Rm 362
Milwaukee, WI 53202
(414) 297-3372

Divisional Office - Green Bay Jefferson Court Building
125 S Jefferson St, Rm 102
Green Bay, WI 54301
(920) 884-3720

Western District of Wisconsin

www.wiwb.uscourts.gov

Main Office - Madison Robert W. Kastenmeier United States Courthouse
120 N. Henry Street, Rm. 340
Madison, WI 53703
(833) 758-0380

Divisional Office - Eau Claire United States Courthouse *
500 S. Barstow Street, Rm. 100
Eau Claire, WI 54701
(833) 758-0380

* In person filings only. No mail accepted. Mail should be directed to Main Office in Madison.

For more information visit our website or contact:

Wisconsin Department of Agriculture,
Trade and Consumer Protection
Bureau of Consumer Protection
2811 Agriculture Drive
PO Box 8911
Madison, WI 53708-8911

Email: DATCPHotline@wi.gov

Website: datcp.wi.gov

Phone: (800) 422-7128

TTY: Dial 711 or (800) 947-3529 before calling DATCP



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