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**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
NOTICE TO CONSUMER DEBTOR(S) UNDER § 342(b)  
OF THE BANKRUPTCY CODE**

In accordance with § 342(b) of the Bankruptcy Code, this notice to individuals with primarily consumer debts: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case.

You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

Notices from the bankruptcy court are sent to the mailing address you list on your bankruptcy petition. In order to ensure that you receive information about events concerning your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address. If you are filing a **joint case** (a single bankruptcy case for two individuals married to each other), and each spouse lists the same mailing address on the bankruptcy petition, you and your spouse will generally receive a single copy of each notice mailed from the bankruptcy court in a jointly-addressed envelope, unless you file a statement with the court requesting that each spouse receive a separate copy of all notices.

### **1. Services Available from Credit Counseling Agencies**

**With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis.** The briefing must be given within 180 days **before** the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies. Each debtor in a joint case must complete the briefing.

**In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge.** The clerk also has a list of approved financial management instructional courses. Each debtor in a joint case must complete the course.

### **2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors**

#### **Chapter 7: Liquidation (\$245 filing fee, \$75 administrative fee, \$15 trustee surcharge: Total Fee \$335)**

Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a "means test" designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, the United States trustee (or bankruptcy administrator), the trustee, or creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.

The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.

Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

#### **Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$235 filing fee, \$75 administrative fee: Total Fee \$310)**

Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments

over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.

After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

**Chapter 11: Reorganization (\$1,167 filing fee, \$550 administrative fee: Total Fee \$1,717)**

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

**Chapter 12: Family Farmer or Fisherman (\$200 filing fee, \$75 administrative fee: Total Fee \$275)**

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

**3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials**

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

**WARNING:** Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court. The documents and the deadlines for filing them are listed on Form B200, which is posted at [http://www.uscourts.gov/bkforms/bankruptcy\\_forms.html#procedure](http://www.uscourts.gov/bkforms/bankruptcy_forms.html#procedure).

## **Purposes, Benefits and Costs of Bankruptcy**

The United States Constitution provides a method whereby individuals, burdened by excessive debt, can obtain a “fresh start” and pursue productive lives unimpaired by past financial problems. It is an important alternative for persons strapped with more debt and stress than they can handle. This alternative is called “bankruptcy.”

The federal bankruptcy laws were enacted to provide good, honest, hard-working debtors with a fresh start and to establish a ranking and equity among all the creditors clamoring for the debtor’s limited resources.

Bankruptcy helps people avoid the kind of permanent discouragement that can prevent them from ever reestablishing themselves as hard-working members of society.

To the extent that there may be money or property available for distribution to creditors, creditors are ranked to make sure that money or property is fairly distributed according to established rules as to which creditors get what.

### **What Bankruptcy Can and Cannot Do**

Bankruptcy may make it possible for financially distressed individuals to:

1. Discharge liability for most or all of their debts and obtain a financial “fresh start.” When the debt is discharged, the debtor has no further legal obligation to pay the debt.
2. Stop foreclosure actions on their home and allow them an opportunity to catch up on missed payments.
3. Prevent repossessions of a car or other property, or force the creditor to return property even after it has been repossessed.
4. Stop wage garnishment and other debt collection attempts.
5. Restore or prevent the termination of certain types of utility service.
6. Lower monthly payments and interest rates on debts, including unsecured debts such as car loans.
7. Allow debtors an opportunity to challenge the claims of certain creditors who have committed fraud or who are otherwise seeking to collect more than they are legally entitled to.

Bankruptcy, however, cannot cure every financial problem. It is usually not possible to:

1. Eliminate certain rights of secured creditors. Although a debtor can force secured creditors to take payments over time in the bankruptcy process, a debtor generally cannot keep the collateral unless the debtor continues to pay the debt.

2. Discharge types of debt singled out by the federal bankruptcy statutes for special treatment, such as child support, alimony, some student loans, certain court-ordered payments, criminal fines, and some taxes.
3. Protect all cosigners on their debts. If a relative or friend co-signed a loan which the debtor discharged in bankruptcy, the cosigner may still be obligated to repay whatever part of the loan not paid during the pendency of the bankruptcy case.
4. Discharge debts that are incurred after bankruptcy has been filed.

### Bankruptcy's Effect on Your Credit

By federal law, a bankruptcy can remain part of a debtor's credit history for 10 years. Whether or not the debtor will be granted credit in the future is unpredictable, and depends in part on the good things the debtor does such as keeping a job, saving money, making timely payments on secured debts, etc. If you can keep on top of any new debts you incur after you emerge from bankruptcy, your credit record could actually improve.

In some cases it may actually be easier to obtain future credit after bankruptcy, because new creditors may feel that since old obligations have been discharged, they will be first in line. They also recognize that the debtor cannot file for bankruptcy again for at least 4 years in the case of Chapter 13 or 8 years in the case of Chapter 7. The truth is that if a debtor cannot pay his or her bills, and the debtor's credit is already ruined or exhausted, filing bankruptcy can actually be an important first step in rebuilding credit.

### Services Available from Credit Counseling Agencies

If you have trouble creating a realistic budget and sticking to it, if you're creditors are inflexible in terms of working out special payment arrangements, if you're unable to keep track of mounting bills, or if you need more help with your debts than can be achieved by merely having a few of your unsecured creditors lower their interest rates, it does not make sense for you to consider contacting a credit counseling organization.

If, on the other hand, the above criteria do not apply to you, there are many non-profit credit counseling organizations that will work with you to help solve your financial problems. However, be aware that just because an organization says that it is "nonprofit," there is no guarantee that its services are free, affordable, or even legitimate. In fact, some credit counseling organizations charge high fees (which may be hidden), urge consumers to make "voluntary" contributions that can lead to a higher debt load, and urge consumers to enter "debt repayment plans" they cannot afford.

Most credit counselors offer services through local offices, the Internet, or on the telephone. If possible, it probably is best to find an organization that offers in-person counseling. Many universities, military bases, credit unions, housing authorities, and branches of the U.S. Cooperative Extension Service operate nonprofit credit counseling programs. Your financial institution, local consumer protection agency, and friends and family also may be good sources of information and referrals.

Reputable credit counseling organizations can advise you on managing your money and debts, help you develop a budget, and offer free educational materials and workshops. Their counselors are certified and trained in the areas of consumer credit, money and debt management, and budgeting. Legitimate counselors will discuss your entire financial situation with you, and help you develop a personal plan to solve your money problems. An initial counseling session typically lasts an hour with an offer of follow up sessions.

If your financial problems stem from too much debt or your inability to repay your debts, a credit counseling agency may recommend that you enroll in what is known as a “debt management plan” or “DMP”. A “DMP” alone is not credit counseling, and DMPs are not for everyone. You should sign up for one of these plans only after a certified credit counselor has spent time thoroughly reviewing your financial situation, has offered you customized advice on managing your money, and has analyzed your budget to make sure that the proposed DMP is one you can afford. However, remember that all organizations that promote DMPs fund themselves in part through kickbacks from the creditors involved, which are called “fair share,” so you have to be wary as to whose best interest the counselor has in mind. Even if a DMP is not appropriate for you, a reputable credit counseling organization still can help you create a budget and teach you money management skills.

With a DMP, you deposit money each month with the credit counseling organization, which uses your deposits to pay your unsecured debts, like your credit card bills and medical bills, according to a payment schedule the counselor develops with your creditors. Your creditors may agree to lower your interest rates or waive certain fees, but it is always best to check with all your creditors, just to make sure they offer the concessions that a credit counseling organization is promising you. A successful DMP requires you to make regular, timely payments, and could take 48 months or more to complete. Ask the credit counselor to estimate how long it will take for you to complete the plan. You may have to agree not to apply for, or use, any additional credit while you’re participating in the plan, and a DMP is useless if your problems stem from or involve your secured creditors holding your automobile or home as collateral. DMPs are also useless if your problems stem from alimony, child support, or overdue taxes.

In the final analysis, if all you need is a lower interest rate on certain unsecured debt, a DMP might be the answer. However, if what you need is actually to reduce the amount of your debt, bankruptcy may be the only solution.