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Courtside *Legal Update*

Bankruptcy: What You Need to Know Before Filing



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Sometimes, the only viable solution to handling serious financial hardship is filing a Chapter 7 bankruptcy. This process is recognized as a helpful option for those looking to relieve overwhelming, unpayable debts. However, in pursuing a Chapter 7 bankruptcy, it's important that the filer understand how bankruptcy will impact their property ownership.

Chapter 7 Bankruptcy: What is it?

Chapter 7 bankruptcy is the most common type of bankruptcy. The process is often referred to as "liquidation bankruptcy" because most of a person's unsecured debt is discharged. This includes personal loans, medical bills, and credit card debt.

In many situations, Chapter 7 bankruptcy can be completed in 3 – 4 months. In order to file, a person must first pass a "means test" to determine whether or not they qualify for a Chapter 7. This test analyzes all financial records, expenses, income, unsecured and secured debt. Each state is unique and has different income and debt requirements.

When bankruptcy is filed unprotected, assets may be sold to generate proceeds that are used to pay creditors. If a property is subject to mortgages and liens, then that property is likely pledged to the creditors. Bankruptcy does allow for basic assets to remain in the possession of the filer because they are necessary for everyday life. In some cases, Chapter 7 bankruptcy can be filed as a "no-assets case," no assets are distributed to the unsecured creditors.

Is Bankruptcy the Right Answer?

It is important to remember every bankruptcy situation is unique. If you are considering filing a Chapter 7, you should consult with an attorney before assuming you need to file bankruptcy. Your attorney might recommend another option, such as a Chapter 13 bankruptcy, to help adjust your debts. Evaluating your options with an experienced attorney could make it possible to save your home from foreclosure and get you back on track.

Do you have questions about your options for bankruptcy? Our team at Tyler & Bursch, LLP is here to help you find the right legal solutions. Contact us to learn about available legal support. Call our main office: (951) 600-2733, or our OC office: (714) 978-2060

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