

How Does My Bankruptcy Affect a Cosigner?

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ABOUT THE AUTHOR

Rand is the principal attorney of Zumwalt Law Group, PLLC. He provides a full range of debt management counsel for individuals and businesses, ranging from debt settlement to bankruptcy.

Rand Zumwalt

Zumwalt Law Group, PLLC

4408 Spicewood Springs Rd., Ste. 403

Austin, Texas 78759

P: 512.777.4099

www.My-Austin-Bankruptcy-Attorney.com

Overview of Credit Laws Involving Cosigners

When a person has either no credit history or a bad one, it can be extremely difficult to get a loan. Creditors will sometimes agree to extend such a person a loan, however, if they can find someone who is willing to vouch for them and be responsible for that debt if the initial borrower cannot or just does not pay it back. This third party is commonly referred to as a cosigner.

If the primary borrower decides to file Chapter 7 bankruptcy and is able to successfully discharge the debt, the creditor will look to the cosigner for the entire amount of the remaining unpaid debt. When this person is a friend or relative, the situation can be tense.

One exception to this scenario may exist for those who use a cosigner to obtain secured debt - for example, to get a car loan or home mortgage. In this case, a Chapter 7 debtor with sufficient income can reaffirm the debt and keep paying making payments as if the bankruptcy were never filed. When a debt is reaffirmed, it survives bankruptcy and the creditor does not have a need to pursue a cosigner for the amount owed.

How Can I Protect My Cosigner?

When protecting a cosigner is of utmost concern, you may want to consider filing a Chapter 13 bankruptcy case. If the entire debt is scheduled to be paid back through your chapter 13 payment plan, then you are not discharging it and your cosigner will be

protected from creditor action by a court order confirming the plan.

Finally, other ways to protect a cosigner from creditor action when a debt is defaulted on include trying to settle the debt or work out a payment plan outside of the court system. Though this can be difficult to maneuver since creditors know another person can be pursued for the full amount immediately, it may be worth the effort to propose. If negotiations do not prevail, then you can always reconsider the bankruptcy options.