

Definitions of Common Bankruptcy Terms

automatic stay An injunction that automatically stops lawsuits, foreclosures, garnishments, and all collection activity against the debtor the moment a bankruptcy petition is filed.

bankruptcy A legal procedure for dealing with debt problems of individuals and businesses; specifically, a case filed under one of the chapters of title 11 of the United States Code (the "Bankruptcy Code").

Bankruptcy Code The informal name for title 11 of the United States Code (11 U.S.C. §§ 101-1330), the federal bankruptcy law.

bankruptcy court The bankruptcy judges in regular active service in each district; a unit of the district court.

bankruptcy estate All legal or equitable interests of the debtor in property at the time of the bankruptcy filing. (The estate includes all property in which the debtor has an interest, even if it is owned or held by another person.)

bankruptcy judge A judicial officer of the United States district court who is the court official with decision-making power over federal bankruptcy cases.

bankruptcy petition The document filed by the debtor (in a voluntary case) or by creditors (in an involuntary case), which opens the bankruptcy case. (There are official forms for bankruptcy petitions.)

chapter 7 The chapter of the Bankruptcy Code providing for "liquidation," (*i.e.*, the sale of a debtor's nonexempt property and the distribution of the proceeds to creditors.)

chapter 11 The chapter of the Bankruptcy Code providing (generally) for reorganization, usually involving a corporation or partnership.

chapter 13 The chapter of the Bankruptcy Code providing for adjustment of debts of an individual with regular income. Chapter 13 allows a debtor to keep property and pay debts over time, usually three to five years.

claim A creditor's assertion of a right to payment from the debtor or the debtor's property.

confirmation Bankruptcy judges's approval of a plan of reorganization or liquidation in chapter 11, or payment plan in chapter 12 or 13.

consumer debtor A debtor whose debts are primarily consumer debts.

consumer debts Debts incurred for personal, as opposed to business, needs.

creditor One to whom the debtor owes money or who claims to be owed money by the debtor.

credit counseling Generally refers to two events in individual bankruptcy cases: (1) the "individual or group briefing" from a nonprofit budget and credit counseling agency that individual debtors must attend prior to filing under any chapter of the Bankruptcy Code; and (2) the "instructional course in personal financial management" in chapters 7 and 13 that an individual debtor must complete before a discharge is entered. Also known as "debtor education".

creditors' meeting The meeting of creditors required by section 341 of the Bankruptcy Code at which the debtor is questioned under oath by creditors, a trustee, examiner, or the U.S. trustee about his/her financial affairs. Also called the "341 meeting".

current monthly income The average monthly income received by the debtor over the six calendar months before commencement of the bankruptcy case, including regular contributions to household expenses from nondebtors and income from the debtor's spouse if the petition is a joint petition, but not including social security income and certain other payments made because the debtor is the victim of certain crimes. 11 U.S.C. § 101(10A).

debtor A person who has filed a petition for relief under the Bankruptcy Code.

discharge A release of a debtor from personal liability for certain dischargeable debts set forth in the Bankruptcy Code.

dischargeable debt A debt for which the Bankruptcy Code allows the debtor's personal liability to be eliminated.

equity The value of a debtor's interest in property that remains after liens and other creditors' interests are considered.

exemptions, exempt property Certain property owned by an individual debtor that the Bankruptcy Code or applicable state law permits the debtor to keep from unsecured creditors.

fresh start The characterization of a debtor's status after bankruptcy, *i.e.*, free of most debts. Giving debtors a fresh start is one purpose of the Bankruptcy Code.

lien The right to take and hold or sell the property of a debtor as security or payment for a debt or duty.

liquidation A sale of a debtor's property with the proceeds to be used for the benefit of creditors.

motion to lift the automatic stay A request by a creditor to allow the creditor to take action against the debtor or the debtor's property that would otherwise be prohibited by the automatic stay.

nondischargeable debt A debt that cannot be eliminated in bankruptcy. Examples include a home mortgage, debts for alimony or child support, certain taxes, debts for most government funded or guaranteed educational loans or benefit overpayments, debts arising from death or personal injury caused by driving while intoxicated or under the influence of drugs, and debts for restitution or a criminal fine included in a sentence on the debtor's conviction of a crime. Some debts, such as debts for money or property obtained by false pretenses and debts for fraud or defalcation while acting in a fiduciary capacity may be declared nondischargeable only if a creditor timely files and prevails in a nondischargeability action.

objection to dischargeability A trustee's or creditor's objection to the debtor being released from personal liability for certain dischargeable debts. Common reasons include allegations that the debt to be discharged was incurred by false pretenses or that debt arose because of the debtor's fraud while acting as a fiduciary.

objection to exemptions A trustee's or creditor's objection to the debtor's attempt to claim certain property as exempt from liquidation by the trustee to creditors.

plan A debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time.

priority The Bankruptcy Code's statutory ranking of unsecured claims that determines the order in which unsecured claims will be paid if there is not enough money to pay all unsecured claims in full. For example, under the Bankruptcy Code's priority scheme, money owed to the case trustee or for prepetition alimony and/or child support must be paid in full before any general unsecured debt (*i.e.* trade debt or credit card debt) is paid.

priority claim An unsecured claim that is entitled to be paid ahead of other unsecured claims that are not entitled to priority status. Priority refers to the order in which these unsecured claims are to be paid.

proof of claim A written statement and verifying documentation filed by a creditor that describes the reason the debtor owes the creditor money. (There is an official form for this purpose.)

property of the estate All legal or equitable interests of the debtor in property as of the commencement of the case.

schedules Detailed lists filed by the debtor along with (or shortly after filing) the petition showing the debtor's assets, liabilities, and other financial information. (There are official forms a debtor must use.)

secured creditor A creditor holding a claim against the debtor who has the right to take and hold or sell certain property of the debtor in satisfaction of some or all of the claim.

secured debt Debt backed by a mortgage, pledge of collateral, or other lien; debt for which the creditor has the right to pursue specific pledged property upon default. Examples include home mortgages, auto loans and tax liens.

trustee The representative of the bankruptcy estate who exercises statutory powers, principally for the benefit of the unsecured creditors, under the general supervision of the court and the direct supervision of the U.S. trustee or bankruptcy administrator.

U.S. trustee An officer of the Justice Department responsible for supervising the administration of bankruptcy cases, estates, and trustees; monitoring plans and disclosure statements; monitoring creditors' committees; monitoring fee applications; and performing other statutory duties.

unsecured claim A claim or debt for which a creditor holds no special assurance of payment, such as a mortgage or lien; a debt for which credit was extended based solely upon the creditor's assessment of the debtor's future ability to pay.

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