

## Debunking Bankruptcy Myths...

*Since the implementation of the Bankruptcy Reform Act of 2005, the bankruptcy process has undergone some changes. Unfortunately, these changes have been either misreported or misunderstood, leading many people who might benefit from such a move to reject bankruptcy outright. All of the following statements are FALSE...*

**Bankruptcy relief is no longer available – FALSE!** – Almost all of the relief available prior to the Reform, survives in today's code. It is somewhat more involved but it still works.

**You can't file bankruptcy if you have a job – FALSE!** – The "means test" was developed to divert some filers who make more than the median income for households of their size in their state of residence to Chapter 13. You MUST have a job to file a plan in Chapter 13.

**Medical bills can't be discharged in bankruptcy – FALSE!** – Almost all unsecured contract debt, like credit cards, personal loans, and medical bills remain dischargeable in bankruptcy. The law as-described-by-bill collectors might imply otherwise.

**Chapter 13 plans require repayment in full of debt – FALSE!** – Chapter 13 plans range from plans that pay general unsecured creditors nothing to plans that pay 100%, with every variation calculable in between. How much you must pay in 13 is driven by the interplay between your disposable income, the value of your non exempt assets, and the total of priority debts you have.

■ By Scott Reece

**Bankruptcy represents personal or moral failure – FALSE!** – Over 90% of bankruptcies are traceable to job loss, illness, or divorce, factors largely out of anyone's control. Bankruptcy is a fresh start.

**People who file bankruptcy can't get credit for 10 years – FALSE!** – People in Chapter 13 borrow money during the case. People who file for Chapter 7 obtain credit after discharge. The rates are higher, but credit is available. This myth probably got its start in the fact that the Fair Credit Reporting Act allows the reporting of a bankruptcy for 10 years.

**You lose everything you own in bankruptcy – FALSE!** – Over 95% of bankruptcy cases filed by individuals are "no asset" cases in which the debtor keeps everything he owns. That's because exemptions provide for assets that the debtor can keep and some assets, like pensions, are beyond the reach of the court. That exemption may allow you to keep your home and many assets.

**Bankruptcy costs society too much – FALSE !** – Credit card issuers are wildly profitable despite the small percentage of loans discharged in bankruptcy. Banks, however, have cost society an incredible amount.

*We are a federally designated debt relief agency pursuant to Title 11 of the US Code. We provide legal assistance and help people file for bankruptcy relief under the Bankruptcy Code.*

# Bankruptcy Exemptions! ■ By Scott Reece

## What You Get To Keep...

*Some people envision that filing bankruptcy means the debtor is kicked to the curb with a suitcase of clothes while they watch their house and all their belongings be sold off by an auctioneer. Not so!!! Bankruptcy exemptions are like "allowances", or caps on the value of things that one is allowed to retain during and after filing bankruptcy. Things such as furniture, housing, vehicles, and money are among the items one may keep, subject to their value and the allowance permitted by the exemption.*

There are federal exemption laws, and in some states, debtors may alternately choose state exemption laws. In California, however, use of the state exemption statutes is required.

There are two sets of exemptions in CA and one must choose between the two. One set is geared towards those claiming a "homestead" interest in property. The homestead exemption includes real property or personal property (such as a mobile home) where you live. The maximum homestead exemption based on equity in your residence is \$75,000 for a single person. The amount increases depending on your age, marital status, etc. If you have no positive equity in your home, you can keep your home without

declaring an exemption for it. This first set of exemptions identifies other allowable exemptions.

The second set of California exemptions is geared towards those who have equity in their home, or do not own real estate at all. This set of exemptions includes a "wildcard" which allows up to \$21,825 of any property, at the debtor's discretion, in addition to the specified exemptions for other property.

The coordination with your attorney to select the exemptions to use in order to keep your property, is a critical part of retaining as much of your assets as possible when filing for bankruptcy. There are an unlimited number of scenarios that can play out depending on what you own, what you owe, and what you want to keep.

For these reasons, it is very important that the legal counsel you retain to guide you through the process is knowledgeable about exemptions and your rights. ■

*If you would like a free telephonic consultation regarding bankruptcy or any other legal matter, please contact us at (714) 331-1014 or email us at: [info@locklearlaw.com](mailto:info@locklearlaw.com).*



# Medical Debts & Bankruptcy ■ By Scott Reece

*All medical bills are eligible for either a full discharge under Chapter 7 of the bankruptcy code, or for restructuring under Chapter 13 if you do not qualify for a Chapter 7.*

The rising costs of healthcare have been a contributing factor to the overall increase in the number of bankruptcy filings in the U.S. A study published in the journal, Health Affairs, in June, 2005, reported that over half of U.S. bankruptcies were the result of healthcare-related debt. Such circumstances are not limited to those without insurance. An unexpected serious illness and the deductibles, co-pays, policy loopholes and other uncovered expenses can result in an insurmountable burden.

In July, 2007, Professor Elizabeth Warren from Harvard Law School testified before the House Committee on the Judiciary that, "the current health care finance system is bankrupting hard-working, play-by-the-rules American families".

**Decent jobs are not safeguards against financial disaster. Fortunately, relief is available through the bankruptcy court. ■**



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