



UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII
1132 Bishop Street, Suite 250
Honolulu, Hawaii 96813

CREDIT COUNSELING AND DEBTOR EDUCATION REQUIREMENTS

For most individuals filing for bankruptcy protection, the Bankruptcy Code requires:

1. **Credit Counseling BEFORE** the bankruptcy petition is filed; and
2. **Debtor Education AFTER** the petition is filed and before a discharge may be issued.

CREDIT COUNSELING FAQs

Q ***Who must obtain credit counseling?***

A All individual debtors. In a joint case, each spouse must obtain credit counseling.

Q ***Does it matter whether my debts are consumer or business?***

A No. Do not confuse credit counseling with the means test in Chapter 7 (required only by individuals with primarily consumer debt). All individuals need to obtain credit counseling.

Q ***Does it matter under which chapter I'm filing?***

A Credit counseling is required for all individuals filing petitions under chapters 7, 11, 12, and 13.

Q ***When must I get the counseling?***

A **BEFORE** filing the petition. Specifically, you must do the credit counseling during the 180-day period before filing for bankruptcy.

Q ***May I get the counseling from any agency that offers help with debt counseling?***

A No. The agency must be a nonprofit budget and credit counseling agency that has been approved by the United States Trustee Program.

Q ***How do I know if an agency has been approved?***

A A list of approved agencies is available at the Bankruptcy Clerk's Office and on the Internet at <http://www.justice.gov/ust/eo/bapcpa/ccde/CC Files/CC Approved Agencies HTML/cc hawaii/cc hawaii.htm>.

Q ***Must the counseling be done in-person?***

A The counseling may take place in-person, over the phone, or via the Internet.

Q ***Is counseling available in languages other than English?***

Yes. You may use the drop down list at the United States Trustee website (above) to select a language and find out where services are available.

Q ***What happens if I can't get the counseling before I need to file the petition?***

A You must attempt to obtain the counseling before you file for bankruptcy. If you don't, your case may be dismissed. However, if you attempt to get the counseling before filing for bankruptcy but cannot obtain it during the 7-day period after making the request, you may ask the court to allow you to obtain the credit counseling during the 30-day period after you file the petition.

Q ***How do I qualify for approval to obtain the credit counseling after filing the petition?***

A On Exhibit D to the petition, check the box for section 3. In the space provided, you must describe "exigent circumstances" that justify the temporary waiver of the credit counseling requirement. WARNING! – Generally, simply stating that a foreclosure, repossession, or other act against you is imminent, without explaining why you did not seek credit counseling earlier, will not be approved. In addition to describing the exigent circumstances involved, you must name of the agency you contacted and the date you made your request.

Q ***Is anyone excused from the credit counseling requirement?***

A There are only 3 situations where credit counseling is not required:

- (1) incapacity where the person is so impaired by reason of mental illness or deficiency that the individual is incapable of making rational decisions,
- (2) disability where the person is so physically impaired that the individual is unable, after reasonable effort, to participate in an in-person, telephone, or Internet briefing session, and
- (3) active military duty in a military combat zone.

You must file a separate motion with the petition if you want the court to grant you this type of exemption. Check the box for section 4 of Exhibit D.

Q ***How do I show that I met the credit counseling requirement?***

A You must complete Exhibit D on page 2 of the petition form. There also is a separate 2-page Exhibit D which must be completed and signed under penalty of perjury. You must attach to Exhibit D a copy of the Certificate of Credit Counseling that the agency provides.

Q ***Do I need to give the court a copy of the Certificate of Credit Counseling?***

A Yes. It should be included in the papers submitted with your petition.

Q ***May I just provide the certificate number?***

A The Certificate of Credit Counseling itself is required. Your case will likely be dismissed if it is not filed.

Q ***What should I do if I obtained the credit counseling but haven't received the certificate?***

A Check the box in section 2 of Exhibit D when you file your petition, then make sure you file the Certificate of Credit Counseling with the court within 14 days.

- Q **May I fax or email the certificate to the court?**
A No. The court does not accept faxes or emails for filing. Mail or hand deliver it to the court. However, if you are being assisted by an attorney who is registered to file documents electronically, the attorney may file the certificate via the Internet.
- Q **What if the credit counseling agency also prepared a debt repayment plan?**
A You must file any debt repayment plan together with the Certificate of Credit Counseling.
- Q **I am an attorney filing via ECF. How do I file the Certificate of Credit Counseling?**
A You should scan the certificate and save it as a PDF. Do not include it with the petition and schedules – file it as a separate docket entry. Select “Certificate of Credit Counseling”.

DEBTOR EDUCATION FAQs

- Q **Who must take a “debtor education” course?**
A Instruction in personal financial management, more commonly referred to as debtor education, is required for all individual debtors under chapters 7 and 13
- Q **I obtained the credit counseling before filing. Why do I need more instruction?**
A The law sets forth two separate requirements - credit counseling before bankruptcy and a personal financial management course taken after you have filed your petition. The personal financial management course is more commonly referred to as “Debtor Education.” When you complete the instruction, you will receive a Certificate of Debtor Education.
- Q **I still don’t understand the difference. Why 2 courses?**
A Credit counseling focuses on your existing debts. In some cases, the agency will prepare a debt repayment plan which may allow you to work out payments with your creditors without actually filing for bankruptcy. In contrast, the debtor education course attempts to teach you how to budget and responsibly manage your finances for the future.
- Q **May I combine the credit counseling with the debtor education?**
A No, although you may choose to use the same agency if it is approved for both credit counseling and debtor education services by the United States Trustee Program. Using the same agency may be less expensive if a “package” price is offered. However, remember that they must be done at separate times - credit counseling before bankruptcy and debtor education during bankruptcy.
- Q **Is there a separate list of agencies approved for debtor education programs?**
A Yes. View the list at:
http://www.justice.gov/ust/eo/bapcpa/ccde/DE_Files/DE_Approved_Agencies_HTML/de_hawaii/de_hawaii.htm.
- Q **Is the debtor education course available in languages other than English?**
A Yes. Check at the website above.

- Q ***Is there a deadline for taking the debtor education course?***
A Yes. In chapter 7, you must complete the course within 60 days after the first date set for your meeting of creditors. In chapter 13, you must complete it before making your last plan payment or before filing a motion requesting a discharge based on hardship.
- Q ***What happens if I don't meet the deadline?***
A The court will send you a notice that you must complete the debtor education in order to obtain a discharge. The discharge is why you filed for bankruptcy. The discharge releases a debtor from personal liability for certain types of debts. In other words, obtaining a discharge means that you are no longer legally required to pay the debts that are discharged. If you go through bankruptcy but do not receive a discharge, you remain responsible for paying all your debts. If you wait too long to complete the debtor education course, the court will close your case without a discharge.
- Q ***If closed without a discharge, can't I reopen my case after getting the debtor education?***
A Yes. But you will be required to pay a reopening fee. Currently, the fee to reopen a chapter 7 case is **\$260**, and the fee to reopen a chapter 13 case is **\$235**, but the fees are subject to change.
- Q ***What do I need to show that I completed the debtor education course?***
A You must file Official Form 23 - Debtor's Certification of Completion of Instructional Course Concerning Financial Management. You must complete the form with the following information: **date you completed the course, the name of the debtor education agency, and the number of the Certificate of Debtor Education.**
- Q ***Do I need to attach the Certificate of Debtor Education for filing with the court?***
A No - you just need to enter the certificate number on Form 23. Unlike the Certificate of Credit Counseling, the Certificate of Debtor Education may be filed with the court but is not required if you have filed Form 23.
- Q ***May I file the Certificate of Debtor Education instead of Form 23?***
A You should file the Form 23 certification whether or not you file the actual certificate.
- Q ***Is there any exemption available?***
A The same as for the credit counseling - incapacity, disability, or active military duty in a military combat zone. If you think you qualify, you must indicate that on Form 23 - the Debtor's Certification of Completion of Instructional Course Concerning Financial Management.
- Q ***May I file Form 23 with my petition?***
A No. Form 23 concerns only the debtor education requirement, not the credit counseling requirement. You should not be filing Form 23 with your petition because you may not obtain the debtor education until after you are already in bankruptcy. You may not take the debtor education before you file the petition.
- Q ***May I fax or email my certification to the court?***
A No. Documents that are faxed or emailed to the court by attorneys or debtors will not be filed.
- Q ***May I send Form 23 or my certificate to the Trustee in my case?***
A No. These documents must be filed with the court in order for you to be issued a discharge. The Trustee may think you are sending a "courtesy copy" and may not forward it to the court for filing.

SUMMARY

Credit Counseling:

1. Obtain the credit counseling from an approved agency BEFORE filing your petition.
2. Complete and sign Exhibit D; attach it to the petition.
3. Include the certificate of credit counseling issued by the agency with your petition.
4. If the certificate is unavailable for including with the petition, file it within 14 days.
5. **Your case may be dismissed if you do not file a credit counseling certificate.**

Debtor Education:

1. Complete a debtor education course from an approved agency AFTER filing the petition.
2. Complete the Form 23 certification of completion of the course.
3. Include the number of the debtor education certificate from the agency on Form 23.
4. File Form 23 no later than 60 days after the first date set for your meeting of creditors in a Chapter 7 case; before making your last plan payment in a Chapter 13 case.
5. **You may not be issued a discharge of your debts if you do not file the certification that you completed a debtor education course.**