

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF HAWAII

INFORMATION ON FILING BANKRUPTCY WITHOUT AN ATTORNEY

The Bankruptcy Court receives numerous calls from persons asking for information about filing bankruptcy cases without an attorney. This pamphlet answers some of the most frequently asked questions.

Is bankruptcy the best way to deal with financial problems? The Bankruptcy Code provides relief for persons with financial problems, but no one should file a bankruptcy case without exploring other options for dealing with these problems. Bankruptcy may not be an effective method of dealing with certain types of debt [e.g., taxes, student loans or other types of non-dischargeable debt] and a bankruptcy filing could have a severe impact on your ability to get credit for many years in the future. Therefore, it is important to consult with credit counseling professionals before making the decision to file a bankruptcy case. Credit counseling services are available from many sources. Attorneys and credit counseling centers can give advice on dealing with financial problems. Credit counseling services may be provided without charge, and some credit unions offer free counseling to their members. Members of the military and their dependants should check with the family service center or legal affairs office to determine what counseling assistance is available. In general, bankruptcy should be considered as a last resort after other methods of dealing with financial problems have failed.

Is it possible to file a bankruptcy case without an attorney? Yes. Current law permits individuals to file their own cases and to represent their own interests in bankruptcy proceedings. However, it may not be wise to do so. Any bankruptcy case can become a complicated matter requiring both knowledge of the law and experience before the court to successfully complete. In order to fill out the forms required to file a case, you will need to know (among other things) the differences between the types of bankruptcies which can be filed, the types of exemptions which can be taken and the differences between secured and unsecured debts. As a case progresses through the court many other areas of law and knowledge may be involved. Decisions made without an understanding of basic bankruptcy law can have serious consequences including the loss of property and legal rights. Only an attorney may file a bankruptcy for a partnership or corporation. Even if an individual is the sole shareholder or the managing partner, that person may not represent the corporation or partnership before the bankruptcy court.

Can the Bankruptcy Court help me? The staff of the court is prohibited from giving legal advice. This means that we cannot assist you in completing forms or deciding the type of bankruptcy you should file. If you decide to file a bankruptcy case without an attorney, you will be on your own. The court will expect you to follow the same rules and procedures as attorneys are required to

follow.

What types of bankruptcies are available to an individual debtor? An individual may file a chapter 7, 11, 12 or 13 case. Chapter 7 is the most common and is the type of bankruptcy with which most people are familiar. A trustee is appointed in a chapter 7 for the purpose of selling property of the debtor which is not exempt under federal or state law. The trustee then pays the money to creditors. Anyone thinking of filing a chapter 7 case should learn which types of property can be exempted under state and federal law. Chapter 13 permits debtors who have a regular source of income to file a plan for payment of some or all of their debts over a period of 3-5 years. Chapter 13 is often used to cure defaults on mortgages in order to save a house, and it may be used to pay some debts which are not dischargeable under chapter 7. When payments under the plan are completed, the debtor receives a discharge of the balance of the pre-petition debts. Chapter 11 is used primarily by operating businesses and is almost never used by an individual consumer debtor. A chapter 11 case is much more complicated and much more expensive than the other types of bankruptcy. The filing fee alone is \$839.00. There is more detailed information about how each of the bankruptcy chapters in bankruptcy work. Click on the hyperlinks below for:

[Chapter 7 pamphlet](#)
[Chapter 13 pamphlet](#)
[Chapter 12 pamphlet](#)
[Chapter 11 pamphlet](#)

Where are court hearings held? In a typical chapter 7 or 13 case, the debtor [or both joint debtors] will be required to attend a § 341 creditors' meeting which will be the only required appearance before either the trustee or the court. Creditors' meetings are held in Honolulu, Wailuku, Lihue, and Hilo. In the majority of chapter 7 and 13 cases the debtor is not required to appear for any other hearing. However, if court hearings are required they are held in the bankruptcy courtroom in Honolulu. If debtors are required to appear for such hearings, they may often appear by telephone conference call. The cost of participating in a hearing by conference call is presently about \$40.00. If a debtor files a bankruptcy case and is in default on a mortgage or if there is a foreclosure pending at the time the bankruptcy is commenced, it is very likely that the creditor who holds the mortgage will file a motion for relief from stay which will result in a hearing before the court.

Where can I get more information? Books are published which attempt to explain the bankruptcy process to people who wish to file cases without attorneys. These do-it-yourself guides usually explain the differences between the types of bankruptcies, and they discuss the issues to be considered when filing a case. They contain samples of forms which can be used to solve various problems. These guides are available in most bookstores and many public libraries. Since the bankruptcy law changes often, it is important to read books which are current. Do not depend upon information in any book which was not published within the last few years. There is a major revision of the Bankruptcy Code being considered. If these changes are passed by Congress, all books and other resource materials published before the revisions will be out of date. None of these books can supply you with the experience, knowledge or skill of a bankruptcy professional.

Where can I get the forms? You have several options: (1) Get the forms off the Internet. The court has posted the forms you need to file a case on this web site. You will find these forms by clicking the “Forms” button on the first page and then click on the hyperlink that says “Forms to File a Case.” These forms are in PDF format and can be completed on line. The forms are free and we keep them current. (2) You can buy them from the court. The package of forms you will need currently costs \$3.20. You can stop at the court [1132 Bishop Street, Suite 250 L] and buy them. If you are not able to visit the court, you can send us a letter requesting the forms, a check for \$3.20 and a self-addressed envelope with \$1.75 in postage. Send us a large 8.5 x 11 envelope. There are many forms and they will not fit in a regular size envelope. (3) You can buy forms from some office supply stores. If you intend to do this, it would be wise to call the stores and find out if they have the forms you need. Be sure that you are buying current forms or you may not get the forms you need. Do not use their matrix form. See the instructions for preparation of a matrix in this pamphlet.

Does the court require the use of any local forms? We have local rules for preparing the mailing matrix which you must submit with your case. The directions for preparing a matrix are included in this pamphlet. We require that you use our local form for a chapter 13 plan and we have many local rules concerning chapter 13 cases. We require debtors who file without an attorney to use a local reaffirmation agreement and we require that they file a motion for approval of such agreements. We have suggested procedures and forms to use when amending a petition or amending schedules to add creditors. We also have checklists for filing cases which will tell you the number of copies of each document to send to the court when you file a case. Here are some of the materials available on our web page: www.hib.uscourts.gov. All forms are also available at the court.

Am I required to use any local forms?. We have local rules for preparing the mailing matrix which you must submit with your case. We require that you use our local form for a chapter 13 plan and we have many local rules concerning preparation of chapter 13 cases. We require *pro se* debtors [i.e., debtors who are not represented by an attorney] to use a local reaffirmation agreement and we require that such debtors file a motion for approval of these agreements. We have suggested procedures and forms to use when amending a petition or amending schedules to add creditors. We also have checklists for filing cases which will tell you the number of copies of each document to send to the court when you file a case. Click on the hyperlinks below to access the documents which you need. These are .pdf files and you will need Adobe Acrobat to open the files. If you do not have this on your computer you can download Adobe Acrobat Reader from this web site.

[Forms for Filing a Case](#)
[Preparing a Mailing Matrix](#)
[Chapter 13 Plan](#)
[Guidelines for Chapter 13 Procedures](#)
[Motion for Extension of Time to File Documents](#)
[Order for Extension of Time to File Documents](#)
[Reaffirmation Agreement and Motion](#)
[Motion for Approval of Reaffirmation agreement](#)
[Checklist for filing a Chapter 7 Case](#)

Checklist for filing a Chapter 13 Case
Memo on Amending a Bankruptcy Case
Adobe Acrobat Reader
Local Bankruptcy Rules

Where do I file a bankruptcy case? You may file a case in person by bringing the completed forms to 1132 Bishop St., Suite 250 L, Honolulu, HI. You may also mail the forms to the court. If you mail the forms be sure that you go over the checklist for the appropriate case [see above] and send the court the documents required with the number of copies stated on the checklist.

Must all the documents be filed together? The court will accept a bankruptcy filing without the Schedules [A-J], Statement of Affairs, the Chapter 13 Plan. These documents are due 15 days from the date on which you filed the petition. If you do not file these documents on time, the court may dismiss your case and may also bar you from filing another bankruptcy petition for 180 days. The Statement of Intentions is due 30 days after the petition is filed.

Must all assets and debts be listed in the schedules and statement of affairs? The bankruptcy process requires debtors to disclose all assets and debts. Severe penalties are imposed on debtors who refuse to cooperate with the trustee or the court and who are dishonest in disclosing necessary information. Actions taken by a debtor to hide assets or to transfer property to friends or relatives may result in either a denial of the debtor's discharge or attempts by the trustee to recover the property for creditors. Attempts to hide property from the trustee may also result in a criminal prosecution. Do not file a bankruptcy case unless you plan to be totally open and honest about all aspects of your finances.

Are there any sources of free legal assistance? Yes, but not to everyone. Legal Aid Society of Hawaii will represent persons who meet their income guidelines. Most debtors are given assistance in preparing their own petitions through workshops [call 536-4302 on O'ahu] but full representation is available in some instances. Volunteer Legal Services Hawaii also conducts workshops on filing bankruptcies. They refer some indigent persons to attorneys who will provide free legal services. [Call 528-7046 or 1-800-839-5200 from outer islands] The Honolulu Lawyers Referral Service [537-0140] gives callers the names of several attorneys who have indicated a interest in bankruptcy law. The fees charged by these attorneys are not regulated by the Service and are likely to be the standard fees charged by each attorney.

What about using a Petition Preparer? There are a number of individuals in Hawaii who run businesses which assist debtors in filing bankruptcy petitions and other forms for a fee. These people will help debtors by taking information supplied by the debtors and creating the forms necessary for filing a bankruptcy case. They often create well executed forms and they are often helpful in explaining general procedures. They are not attorneys and are not allowed to give legal advice as part of their services. They cannot represent debtors in court.

How much does it cost to file bankruptcy? The filing fee for a chapter 13 is \$194.00, and the fee for a chapter 7 is \$209.00. Filing fees may not be waived at this time. The filing fee in a chapter 7,

12 or 13 case filed by an individual debtor may be paid in 4 (or less) installments over 120 days if an application to pay by installments is filed with the case. This form is available in the forms section of our web page. The filing fees are in addition to any legal fees charged by a professional for services in preparing a bankruptcy case and for legal advice.

Will filing a bankruptcy stop creditors from collection actions and from calling me? The filing of a bankruptcy action will stop almost all acts to collect debts which were due at the time of filing, including law suits, repossessions and foreclosures. However, some creditors may request the bankruptcy court to allow them to proceed with an eviction or a repossession or a foreclosure after the case is filed. The bankruptcy law may permit such actions to continue even after the case is filed.

How are creditors notified of the bankruptcy? When a bankruptcy is filed, the debtor gives the court a mailing matrix which is used by the court to notify creditors of the filing of the bankruptcy. A notice is mailed by the court which informs creditors of the date for the meeting of creditors. It is usually received by creditors within a week of the filing of the petition.

Are there any debts which are not discharged by a bankruptcy? Yes. The Bankruptcy Code makes alimony, child support, criminal fines and penalties, judgments resulting from death or personal injury against a person who was driving while impaired and most taxes non-dischargeable. These debts are still owed after the bankruptcy case has ended. Most guaranteed student loans are not discharged unless the debtor files a separate legal action seeking a hardship discharge of these loans. In addition, certain creditors can ask the bankruptcy court to find their debts not dischargeable if the debts were incurred due to the fraud or misrepresentation of the debtor [and for other reasons stated in Section 523 and 727 of the Bankruptcy Code]. You should be aware that the filing of a bankruptcy case may not prevent a mortgage foreclosure or repossession of a car. If you are filing a bankruptcy to prevent a secured creditor from taking such actions, you should not do so without getting legal advice on how the bankruptcy will affect these actions.

What is a discharge? The goal of most people who file bankruptcy is to get a discharge of some or all of their debts. In a chapter 7 case all debts which can be discharged (see discussion above) will be discharged approximately four months from the time the case is filed. In a chapter 13 case, those debts which were not paid under the plan will be discharged when all payments have been made as required by the plan.

Will the bankruptcy affect my credit rating? Yes. The record of your bankruptcy may appear on your credit report for as long as 10 years after the date on which the bankruptcy was filed. It may be very difficult to borrow money as long as this information appears on the report.

Court Address:

United States Bankruptcy Court
1132 Bishop Street, Suite 250 L
Honolulu, HI 96813
Telephone: 808-522-8100

Directions to the court:

The court is located on Bishop Street between Beretania and Hotel Streets. The building is a 30 story brown modern office building and is sitting behind a row of one story shops which face Bishop Street. There is an entrance on Fort Street Mall. You can look at a map of the area by clicking on the hyperlink below:

[Map of Area](#)

Parking: There is parking in this building but the court does not validate parking tickets. The cost of parking in the building is \$3.00 per half hour. There are many other parking structures in the area. There is a parking lot with meters on the corner of Beretania Street and Bishop Street next to the Episcopal Cathedral. Parking in this lot is 25 cents per quarter hour.