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# What is the Procedure for Chapter 7 Bankruptcy?

Bankruptcy is a set of federal laws that can help individuals and businesses manage and eliminate debt. Together, the various “chapters” of bankruptcy law are referred to as the Bankruptcy Code.

Bankruptcy cases are separated into different chapters, the most commonly known being Chapter 7, Chapter 11, and Chapter 13. Each chapter provides individuals and businesses, referred to as debtors, with the opportunity to eliminate or “discharge” their debt subject to certain requirements.

## The General Process

A bankruptcy case usually starts when a person who owes money (called a debtor) files a form with the bankruptcy court. This person has to list all their belongings, income, debts, and the names and contact info of everyone they owe money to.

One of the most important parts of bankruptcy law is something called the “automatic stay.” This rule starts as soon as the person files for bankruptcy. It stops people or companies they owe money to (called creditors) from trying to collect money or take property. If a creditor tries to collect after the case is filed, they can get into serious trouble. The automatic stay gives the person time and protection while the case is going on.

While the automatic stay is in place, creditors are not allowed to start or continue lawsuits, take money from your paycheck or bank account, or contact you to ask for

payment. A few days after you file for bankruptcy, the court sends a letter to all the people or companies you owe money to, letting them know about the case. In most Chapter 7 cases, the person filing doesn't have much money or property to give to creditors. So, if there are no big problems or arguments in the case, the court usually forgives most of the person's debts without anyone objecting.

Bankruptcy courts are part of the federal court system. Each state is divided into federal "districts." Wisconsin has two: the Eastern District and the Western District. The Eastern District covers 28 counties on the east side of the state, and the Western District covers the other 44 counties. It's important to file your case in the correct district. Sometimes, each district may have its own rules or forms. This guide will point out those differences when they come up.

A bankruptcy case usually has two main parts: before you file (pre-petition) and after you file (post-petition). In a Chapter 7 case, the before-filing (pre-petition) part includes three steps:

1. Checking if you're allowed to file (eligibility)
2. Taking a credit counseling class
3. Getting all your bankruptcy forms ready

The after-filing (post-petition) part includes three more steps:

1. Filing your papers and understanding what happens when you file
2. Turning in any extra paperwork
3. Following the rules and duties for someone filing Chapter 7

Most Chapter 7 cases take about 4 to 5 months from start to finish, ending with the discharge of your debts.

## **Chapter 7**

A Chapter 7 bankruptcy case is often called a "liquidation" because it's meant to gather a person's property to help pay back the people they owe money to. This group of assets is called the person's "bankruptcy estate."

But the law allows people to keep certain property, up to certain dollar limits. This is called “exempt property.” Because of this, more than 90% of Chapter 7 cases are “no-asset” cases. That means the person gets to keep everything they own, and there’s nothing left to give to creditors.

In return for following the rules of bankruptcy, most people who file Chapter 7 get their debts wiped out (discharged) in about 3 to 4 months. This is a good deal for many people, because they can erase big debts like medical bills or credit card debt and still keep things like their home or car—if those things are protected by exemptions.

Most people who file for Chapter 7 never go to court or see a judge. The only official meeting they usually attend is called the “meeting of creditors.” It’s held in an office, not a courtroom, and it gives creditors a chance to ask questions about the person’s finances. This meeting is also called a “341 Meeting” because Section 341 of the Bankruptcy Code says it has to happen.

These meetings are run by Chapter 7 trustees. Trustees are lawyers chosen by the U.S. Trustee, which is a part of the Department of Justice that watches over bankruptcy cases.

In more complicated cases, people may argue about things like:

1. Who really owns certain property
2. How the property should be used
3. How much something is worth
4. How much is still owed on a debt
5. Whether some debts should be erased
6. How much lawyers or other professionals should get paid

When that happens, the case can go through a process similar to a regular court case, including gathering information, trying to settle, and even going to trial if needed.

## **General Considerations**

Filing for Chapter 7 bankruptcy is a big decision and should not be taken lightly. Before you decide to file, it’s a good idea to talk to a bankruptcy attorney in your area. An attorney can help you figure out if Chapter 7 is the right choice for you. Only an attorney can give you legal advice about what might happen if you file and

what other options you might have.

If you do choose to file, an attorney can help you fill out the forms correctly and protect you, your family, your home, and your things.

While the law says you can file for bankruptcy on your own, it can be hard to do it without help. The rules are complicated, and if you make a mistake or don't follow the rules, it could cause problems in your case. Even if you don't have an attorney, you are still responsible for doing everything the law requires.

Also, bankruptcy fraud is a serious crime. If you lie, hide property, or cheat to get money or avoid paying debts, you could be fined up to \$250,000, sent to prison for up to 20 years, or both.

## **Step 1: Determine Eligibility**

To qualify for Chapter 7 bankruptcy, most people have to take something called the "[means test](#)." This test has two parts:

1. Comparing your income to the average income in Wisconsin
2. Figuring out how much money you have left after paying certain expenses

### **Income Comparison**

First, you look at your household's average monthly income for the past six months. Then, you multiply that by 12 to estimate your yearly income. You'll need to count all income from sources like:

- Paychecks (wages, tips, bonuses)
- Money from a business or farm
- Rent from property you own
- Interest or dividends from investments
- Child support or alimony
- Unemployment, retirement, or workers' comp payments
- Annuity or state disability payments

You do not need to include Social Security retirement, VA benefits, or tax refunds.

If your income is at or below the median income for a household your size in Wisconsin, you can file for Chapter 7.

## **Disposable Income**

If your income is above the median, you have to take the second part of the means test. This looks at how much “disposable income” you have after paying allowed monthly costs like rent, food, and other basic needs. These expenses are based on IRS guidelines.

The test checks whether you could afford to pay back some of your debts through a Chapter 13 plan instead. If it looks like you have enough leftover money to pay back a good chunk of your debts, then filing for Chapter 7 might be seen as “abuse.”

The bankruptcy might be considered abusive if your leftover income over five years is:

- More than \$9,075 or 25% of your unsecured debts (whichever is more), or
- More than \$15,150 total.

(These numbers change every three years.)

If you have special circumstances—like a sudden job loss, medical costs, or other changes—you can explain that to the court to show that filing Chapter 7 is still fair.

## **Other Rules for Chapter 7**

You can't file for Chapter 7 if:

- You already got a Chapter 7 or 11 discharge in the last 8 years, or a Chapter 12 or 13 discharge in the last 6 years.
- You had a bankruptcy case dismissed in the past 180 days (6 months) because you didn't follow court rules, missed the meeting with creditors, or asked for the case to be dropped after creditors tried to end the automatic stay.

So, before filing, it's important to make sure you meet the rules and timing for Chapter 7.

## **Step 2: Credit Counseling**

Before you can file for bankruptcy, the law says you must complete credit counseling from an approved credit counseling agency. If you're filing with your spouse, both of you must take the counseling.

This counseling has to be done within 180 days (about 6 months) before you file for bankruptcy. Most people do it by phone or online. After you finish, you'll get a certificate, and you must include that certificate with your bankruptcy paperwork. To find a credit counseling agency that is approved, visit the U.S. Trustee website. If you don't have a computer, you can ask the Bankruptcy Court Clerk's office if they have one you can use.

**Warning:** If you file for bankruptcy without first doing the counseling, and you don't qualify for extra time or an exemption, your case will be dismissed. That means your debts won't be wiped out. Even if you file again within one year, your protection from creditors (called the "automatic stay") might only last 30 days.

**Note:** Some agencies offer counseling for free or at a lower cost, depending on how much money you make. If your household income is less than 150% of the poverty level, you may be able to get a discount or have the fee waived. Agencies are required to tell you their prices and fee waiver rules before they ask for any information or start the session.

## Step 3: File the Petition

To fill out the official bankruptcy forms, you'll need to gather and provide the following information:

1. A list of everyone you owe money to (your creditors), how much you owe them, and what kind of debt it is
2. Where your income comes from, how much you make, and how often you get paid
3. A list of everything you own (your property)
4. A detailed list of your monthly living expenses, like food, clothes, rent or mortgage, utilities, taxes, transportation, medicine, and more

If you're married, you and your spouse can file together (a joint petition) or separately. But even if you file together, each person still has to follow all the same rules and turn in all the required documents.

Even if only one spouse files for bankruptcy, you still have to include information about the other spouse's income and expenses. This helps the court, the trustee, and creditors understand your household's full financial situation.

Prepare and file bankruptcy forms with the court, which include:

- [Voluntary Petition](#)
  - If you do not have an attorney, you must include your daytime phone number with area code.
- Creditor Matrix
  - This has a complicated name, but it is essentially a list of your creditors' names and mailing addresses, formatted as a mailing list according to instructions from the bankruptcy court in which you file.
  - Eastern District: Prefers you [enter the information online](#)
  - Western District: You can submit it in paper format or electronically. Information at [this link](#) explains the exact format the list must be in. If you are filing a new case in person at the Bankruptcy Court you can type up and submit the mailing matrix at one of the public access computers at the counter via this link.
- Statement of Social Security Numbers
  - Eastern District: [Your Statement About Your Social Security Numbers](#). If you are married and are NOT filing a joint case with your spouse, also: [Statement of Non-Filing Spouse's Social Security Number\(s\)](#)
  - Western District: [Statement of Social Security Numbers](#)
- Certificate of credit counseling and debt repayment plan or Section 109(h)(3) Certification of Exigent Circumstances or Section 109(h)(4) Request for Waiver
- Pay the filing fee (currently \$338) or file an [Application for Individuals to Pay the Filing Fee in Installments](#) or an [Application to Have the Chapter & Filing Fee Waived](#)
  - For your fee in a chapter 7 to be waived, the following must all be true:
    - The total combined monthly income for your family is less than 150% of the federal poverty guidelines
    - You cannot afford to pay the fee even in installments

Warning: Failure to pay fees can cause your case to be dismissed!

- If applicable:
  - [Initial Statement About an Eviction Judgment Against You](#)

- Use this form if your landlord has an eviction judgment against you. If you want to stay in your residence for the first 30 days after you file, you must put that on the form.
- [Statement About Payment of an Eviction Judgment Against You](#)
  - Use this form if you filled out the Initial Statement (above), and you want to stay in your rented residence for more than 30 days after you file for bankruptcy.
- [Bankruptcy Petition Preparer's Notice](#) and [Disclosure of Compensation of Bankruptcy Petition Preparer](#)
  - Use these forms if a bankruptcy petition preparer filled out your forms.

## Step 4: Automatic Stay (Immediately)

Once you file for bankruptcy, something called an automatic stay begins right away. This means most collection actions must stop. Creditors can't sue you, take money from your paycheck (garnishment), or move forward with foreclosure.

The bankruptcy court will send a notice to all the creditors you listed, letting them know that you've filed for bankruptcy.

## Step 5: File Additional Forms (Days 1-14)

When you file your bankruptcy case or within 14 calendar days after you file:

**Note:** It is recommended that you file these forms at the same time as you file the forms above.

- [Property](#)
  - A list of everything you own or have an interest in.
- [The Property You Claim as Exempt](#)
  - Exempt property is property the law allows you to keep despite a bankruptcy. Exemptions are not automatic - you must list property in this form for it to be considered exempt.
  - There are federal exemptions and state exemptions. You must decide which exemptions you are going to use. An attorney can help you decide which exemptions are best for your situation.

- [Creditors Who Hold Claims Secured by Property](#)
  - The people or organizations to whom you owe money are called your creditors. A claim is a creditor's right to get paid. A creditor with a secured claim may be able to get paid from specific property in which that creditor has an interest, such as a mortgage.
- [Creditors Who Have Unsecured Claims](#)
  - Creditors with unsecured claims do not have rights against specific property.
  - List all creditors with unsecured claims against you, including:
    - Your relatives or friends to whom you owe money.
    - Your ex-spouse, if you are obligated under a divorce settlement to pay joint debts.
    - Anyone who has sued or may sue you because of an accident, dispute, or similar event that has occurred.
    - Taxes
- [Executory Contracts & Unexpired Leases](#)
  - Executory contracts are contracts between you and someone else in which neither you nor the other person have performed all of the requirements by the time you file for bankruptcy.
    - Examples: contracts for your cell phone, internet, and cable
  - Unexpired leases are leases that are still in effect; the lease period has not yet ended.
    - Examples: leases for your home and car
- [Your Co-Debtors](#)
  - If you have any debts that someone else may also be responsible for paying, those people or entities are called codebtors.
  - List all of your codebtors and the creditors to whom you owe the debt.
- [Your Income](#)
  - Give details about your employment and monthly income.
  - If you are married and your spouse is living with you, include information about your spouse even if they are not filing with you.
- [Your Expenses](#)
  - Provide an estimate of monthly expenses for you, your dependents, and other people in your household whose income is included in "Your Income" (above).0
- [Declaration About an Individual Debtor's Schedules](#)
- [Statement of Financial Affairs for Individuals Filing for Bankruptcy](#)

- Provide a summary of your financial history over certain periods of time before you file for bankruptcy.
- [Statement of Your Current Monthly Income](#)
  - Determines your currently monthly income and compares whether your income is more than the median income for households of the same size in Wisconsin.
- Copies of all pay stubs or other evidence of payment you received within 60 days before filing the petition.
  - Eastern District: [Payment Advice Cover Sheet](#)
  - [Western District: Payment Advices Cover Sheet](#)
- [A Summary of Your Assets and Liabilities and Certain Statistical Information](#)
  - Summarize information from forms: Property, Creditors Who Have Claims Secured by Property, Creditors Who Have Unsecured Claims, Your Income, Your Expenses, and
- Statement of Your Current Monthly Income

If applicable:

- [Expenses for Separate Household of Debtor 2](#)
- [Means Test Calculation](#)
  - You must complete this form if your income is above the median for your state, as determined by the Statement of Your Current Monthly Income form. (see above)
- [Statement of Exemption from Presumption of Abuse](#)
  - Determines whether you may be exempted from the presumption of abuse because you don't primarily have consumer debts or because you've provided certain military or homeland defense services.
- [Declaration Regarding Electronic Filing \(Self-Represented Individual\)](#)

## **Step 5: Trustee Appointment**

- The court appoints a bankruptcy trustee to oversee your case.
- The trustee reviews your petition and verifies that you are eligible for relief under the Bankruptcy Code.
- The trustee has the duty to maximize the value of the estate for the creditors.

## Step 6: File Debtor's Statement of Intention (By Day 30 or Meeting of Creditors)

How you fill out this form affects what happens to your secured property, like your car and house.

- Explain what you intend to do with property that is collateral (security) for secured debts
  - Option 1: Surrender the property to the creditor. Your bankruptcy discharge will protect you from any claim for the difference between what you owe the creditor and what the creditor receives from the sale of the property, unless the court determines that the debt is nondischargeable.
  - Option 2: Keep the property.
    - Reaffirm the debt. Agree to keep paying a debt even after filing for bankruptcy, usually so you can keep something you owe money on—like your car. For example, if you want to keep your car, you might agree to keep making the monthly car loan payments. If you don't have a lawyer and are representing yourself, you need the court's permission to reaffirm a debt. The court may also require you to attend a hearing before it approves the reaffirmation.
    - Redeem the property. Pay the creditor the value of the property or the amount of the claim, whichever is less, in a lump-sum (single payment). You can do this if all the following apply:
      - You took on the debt primarily for personal, family, or household use.
      - The property is physical, such as furniture, appliances, and cars.
      - You are either claiming the property as exempt or the trustee has abandoned it.
      - The court grants your motion to redeem your property.
  - Other options (talk to an attorney for more details)
- Explain what you intend to do with your leased personal property.
  - The automatic stay (see below) will end early unless you say that you plan to take over the unexpired lease if the trustee does not do so.
- You must deliver copies of this statement to the creditors and lessors listed on the form.

## Step 7: Meeting of Creditors (Days 21-49)

**Note:** A copy of your most recent federal tax return (or a transcript of the return) is due to the trustee 7 days before the Section 341 meeting of creditors:

You must attend the meeting to answer questions under oath from the trustee and sometimes from creditors. However, creditors don't usually show up at Chapter 7 bankruptcy meetings. The meeting usually lasts less than 30 minutes.

At the meeting, you'll be asked questions about:

- Whether your bankruptcy forms and financial details are correct
- Your overall financial situation and actions

The trustee is required to ask you questions to make sure you understand the consequences of asking for a debt discharge in bankruptcy. These questions may cover how bankruptcy affects your credit, if you can file for a different type of bankruptcy in the future, and the impact of reaffirming a debt. Some trustees will give you written information on these topics to make sure you fully understand.

Last updated on September 16, 2025.

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