

Bankruptcy Myths Busted

Contributed by Bk Home
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1. Even if I file for bankruptcy creditors will still harass me and my family.

This is absolutely false. Bankruptcy law provides for an automatic stay. Simply, as soon as you file for bankruptcy a hold is put on all your outstanding debts and any creditor attempts to collect those debts. The law prohibits a debtor to attempt to collect, possess, or even contact the debtor in regard to the debt. If a creditor does not follow the rules, the debtor may have an action in the form of punitive damages. Basically, punitive damages are meant to punish a creditor for not following the procedures set out in the bankruptcy code. Whether a debtor has a cause of action against a creditor should be left to an attorney to answer. However what you need to know is this; once you file for bankruptcy, creditors must leave you alone or suffer the consequences.

2. If I file for bankruptcy it may cause more family troubles than I already have, maybe even divorce.

This is also false. There are two ways a debtor can file for bankruptcy voluntary and involuntary. Voluntary filing is done by the debtor. The debtor talks to an attorney or files a petition pro se and gets the bankruptcy process started. In an involuntary bankruptcy, the creditor forces the debtor into bankruptcy often times unwanted by the debtor. Voluntary filing is the result of a family discussing their options with each other and possibly an attorney and making an informed decision on the merits. Divorce is often associated with a bankruptcy with the latter filing. Voluntarily filing for bankruptcy gives the debtor a chance to set his terms and allows the debtor a free choice for the bankruptcy.

3. If I file for bankruptcy the trustee will seize all of my assets and sell them to settle my debts with creditors.

Again this is false. While it is one of the duties of a trustee to sell assets in the estate, the trustee cannot necessarily reach all of your assets. There are many factors that must be examined before this happens. The type of bankruptcy as a lot to do with how much the trustee can seize. For example, a chapter 13 is a reorganization bankruptcy. Simply, the debtor keeps the majority if not all of his assets, and forms a repayment plan to satisfy interested creditors. Even in a chapter 7 filing the debtor gets to keep many assets. These are called non-exempt assets. The debtor's house, car, clothing, furniture, life insurance, etc. are all non-exempt assets. These are just a few of the main assets. An attorney will be able to arm you with the information you need to keep even more personal property a debtor thought possible.

4. If I file for bankruptcy now, I will never be able to file again.

Surprise, this too is false. Filing for bankruptcy does not make you ineligible to file again. Without going into too much detail, just know the bankruptcy code allows a debtor to file for bankruptcy more than once. There are a few things different most importantly possibility of discharge, however you can file for bankruptcy again if you already have filed.

5. If I file for bankruptcy I will never get credit again.

This is simply false. If this were true then nobody would file for bankruptcy. Americans depend on credit and this is no different than a debtor who has filed for bankruptcy. Several banks now offer credit on a secured basis to potentially risky customers. The debtor would put up a small amount of money so as to secure payment in the future. Once the debtor proves his ability to pay, credit limits get higher. As little as two years after a chapter 7, a debtor is eligible for mortgage loans on terms equal to someone who has not gone through bankruptcy. Creditors look more to a debtors stability, as opposed to the fact you filed for bankruptcy.

About The Author

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