

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

INFORMATION SHEET

YOU SHOULD OBTAIN A SET OF THE LOCAL BANKRUPTCY RULES; COMPLIANCE WITH THEM IS REQUIRED.

Often the clerk's office is contacted by individuals desiring to file bankruptcy petitions without advice and aid of legal counsel and questions are asked, the answers to which could be considered as legal advice. The clerk's office is not staffed with attorneys. Even if it were, they could not answer legal questions or practice law. To do so would be in direct violation of the ethical codes by which our conduct is governed. There is, however, certain information that we can provide regarding procedures. This information sheet is designed to give you as much of that information as possible.

If you have decided to seek protection under the Bankruptcy Code (11 U.S.C. §101, *et seq.*), you should know that there are several types of bankruptcy cases that may be filed. A brief description of the types of cases for which individuals may be eligible follows:

Chapter 7: Liquidation (\$155.00 Filing Fee): (See also "NOTE" following Chapter 12 below)

Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Under this chapter, a trustee takes possession of the debtor's property, sells or otherwise disposes of all non-exempt property and uses the money derived from any such sales to pay creditors according to the priorities of the Bankruptcy Code and the direction of the court.

The usual purpose of filing a chapter 7 case is to obtain a discharge of existing debts. If, however, a debtor is found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the discharge may be denied by the court, and the purpose for filing the bankruptcy case will be defeated. Even if a debtor receives a discharge, there are some debts that are not discharged under the law. Therefore, a debtor may still be responsible for such debts including, but not limited to, certain taxes and student loans, alimony and support payments, debts fraudulently incurred, debts for willful and malicious injury to a person or property, and debts arising from driving while intoxicated.

In certain circumstances, a debtor may keep property that was purchased subject to a valid security interest, such as a house, an automobile, etc. An attorney can explain the options that are available.

Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$155.00 Filing Fee): (See also "NOTE" following chapter 12 below)

Chapter 13 is designed for individuals with regular income who are temporarily unable to pay their debts but would like to pay them in installments over a period of time. A debtor is only eligible for chapter 13 if the debts do not exceed certain dollar amounts set forth in the Bankruptcy Code. Under chapter 13, a debtor must file a plan with the court to repay creditors all or part of the money owed them, using future earnings. Usually the period allowed by the court to repay debts is three years, and cannot be more than five years.

Under chapter 13, unlike chapter 7, a debtor may keep all property, both exempt and non-exempt, as long as the debtor continues to make payments under the plan and any other payments directly to certain creditors such as mortgage payments, which are considered outside of the plan. After making all payments provided in the plan, debts provided for in the plan are discharged, except alimony and child support payments, certain kinds of taxes owed for less than three years, long-term secured obligations, restitution debts, some student loan debts, and debts arising from driving while intoxicated.

Chapter 11: Reorganization (\$800.00 Filing Fee): (See also "NOTE" following Chapter 12 below)

Chapter 11 is designed primarily for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and it is suggested that any decision to file a chapter 11 case be reviewed with an attorney.

Chapter 12: Family Farmer (\$200.00 Filing Fee): (See also "NOTE" following Chapter 12 below)

Chapter 12 is designed to permit family farmers to repay their debts over a period of time from future earnings and is in many ways similar to a chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family owned farm.

NOTE:

An administrative fee of \$39.00 is required to be paid upon the filing of all petitions for relief under the Bankruptcy Code (11 U.S.C. §101 et seq.) This fee is in lieu of the noticing fee the clerk is required to charge as provided by Item 8 of the appendix to 28 U.S.C. §1930(b) (the Bankruptcy Court Fee Schedule).

A trustee surcharge fee of \$15.00 is required to be paid upon the filing of all petitions for relief under chapter 7 of the Bankruptcy Code (11 U.S.C. §101 et seq.) The clerk is required to collect this fee as provided by Item 8.1 of the appendix to 28 U.S.C. §1930(b) (the Bankruptcy Court Fee Schedule).

These fees may be included in one check with the filing fee because they are assessed, and are to be collected, at the time the petition for relief is filed -- this means that payment at the time of filing a chapter 7 case should be \$209.00 -- the payment at the time of filing a chapter 13 case should be \$194.00 -- the payment at the time of filing a chapter 11 case should be \$839.00 -- the payment at the time of filing a chapter 12 case should be \$239.00.

Applications to pay filing fees, administrative fee and the trustee surcharge fee in installments for a chapter 7 case must be accompanied by at least \$89.00 -- a chapter 13 case must be accompanied by at least \$74.00 -- a chapter 11 case must be accompanied by at least \$339.00 -- a chapter 12 case must be accompanied by at least \$114.00 (minimum installment payments required pursuant to Local Bankruptcy Rule 1006-1). The Judicial Conference has mandated that the first \$39.00 received in installments be applied to the administrative fee.

Within this information sheet, you will find certain information about what documents are required to be filed. The court does not stock forms for your use in filing a bankruptcy case. The forms are available from most office supply stores. The court may not recommend a supply store, but you can obtain a list of stores from the clerk's office. You may find these listed under "Office Supplies" in your local telephone directory. The Bankruptcy Code and the Federal Rules of Bankruptcy Procedure establish the requirements for filing a petition and the required schedules, statements and lists. Other forms which are required by this court can be found in the Local Bankruptcy Rules. You may request a set of Local Bankruptcy Rules either in person at the court or via the mail by sending a request for them along with an 8 1/2 x 11 return envelope containing postage of \$3.00; however, the Local Bankruptcy Rules will not provide all of the information you may need to complete your case. The court does not provide copies of the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure.

REQUIRED LISTS, SCHEDULES AND STATEMENTS

Voluntary Chapter 7 Case

If you file an application to pay the fee in installments, you must be an individual (corporate entities may not pay fees in installments) and must submit a signed application for court approval. The signed application must state the reasons why you cannot pay the full fee, that you have not paid your attorney or anyone else for assistance in filing your petition, and that you will not pay anyone until the full fee is paid. (Official Form B-3.) Local Bankruptcy Rule 1006-1 requires \$89.00 minimum first installment payment at the time of filing the petition which must accompany a petition for relief filed under chapter 7.

Number of copies of petition and all schedules: Original and two.

Voluntary Petition (Official Form B-1)

Notice to Individual Consumer Debtors (See Local Bankruptcy Rule 1002-1).*

List of Creditors (See Local Bankruptcy Rule 1007-1).

All of the following schedules must be submitted with the petition or within 15 days after filing the petition. **(NOTE: Schedule C is required ONLY if debtor is an individual.)** Summary of Schedules (Official Form B-6). Required schedules are as follows: Schedule A - Real Property; Schedule B - Personal Property; Schedule C - Property Claimed as Exempt; Schedule D - Creditors (people you owe) - Secured; Schedule E - Creditors - Priority; Schedule F - Creditors - Unsecured; Schedule G - Executory Contracts and Unexpired Leases; Schedule H - Codebtors; Schedule I - Current Income; Schedule J - Current Expenses.

Statement of Financial Affairs (Official Form B-7). Must be submitted with the petition or within 15 days after filing the petition.

Statement of Intention (regarding secured property) (Official Form B-8). Required ONLY if the debtor is an individual and Schedule D (Secured Creditors) contains consumer proofs of claim or interests secured by property of the estate. Must be submitted within 30 days of the filing of the petition or by the date set for the §341 meeting of creditors, whichever is earlier.

Statement disclosing compensation paid or to be paid to a "bankruptcy petition preparer" as defined in 11 U.S.C. §110.

Chapter 13 Case

If you submit an application to pay the filing fee in installments, you must be an individual (corporate entities may not pay fees in installments). The signed application must state the reasons why you cannot pay the full fee, that you have not paid your attorney or anyone else for assistance in filing your petition, and that you will not pay anyone until the full fee is paid. (Official Form B-3.) Local Bankruptcy Rule 1006-1 requires \$74.00 minimum first installment payment at the time of filing the petition which must accompany a petition for relief filed under chapter 13. If an application is granted, installment payments in chapter 13 cases are made by the trustee from the first monies received by the trustee from the debtor.

Number of copies of petition and all schedules: Original and one.

Voluntary Petition (Official Form B-1)

Notice to Individual Consumer Debtors (See Local Bankruptcy Rule 1002-1).*

List of Creditors (See Local Bankruptcy Rule 1007-1).

All of the following schedules must be submitted with the petition or within 15 days after filing the petition. **(NOTE: Schedule C is required ONLY if debtor is an individual.)** Summary of Schedules (Official Form B-6). Required schedules are as follows: Schedule A - Real Property; Schedule B - Personal Property; Schedule C - Property Claimed as Exempt; Schedule D - Creditors (people you owe) - Secured; Schedule E - Creditors - Priority; Schedule F - Creditors - Unsecured; Schedule G - Executory Contracts and Unexpired Leases; Schedule H - Codebtors; Schedule I - Current Income; Schedule J - Current Expenses.

Statement of Financial Affairs (Official Form B-7). Must be submitted with the petition or within 15 days after filing the petition.

Chapter 13 Plan and Related Motions. Must be submitted with the petition or within 15 days after filing the petition and must conform to Exhibit 1 to Local Bankruptcy Rule 3015-1.

Statement disclosing compensation paid or to be paid to a "bankruptcy petition preparer" as defined in 11 U.S.C. §110.

Voluntary Chapter 11 Case

If you submit an application to pay the filing fee in installments, you must be an individual (corporate entities may not pay fees in installments). The signed application must state the reasons why you cannot pay the full fee,

that you have not paid your attorney or anyone else for assistance in filing your petition, and that you will not pay anyone until the full fee is paid. (Official Form B-3.) Local Bankruptcy Rule 1006-1 requires \$339.00 minimum first installment payment at the time of filing the petition.

Number of copies of petition and all schedules: Original and four.

Voluntary Petition (Official Form B-1)

Notice to Individual Consumer Debtors (See Local Bankruptcy Rule 1002-1).*

List of Creditors (See Local Bankruptcy Rule 1007-1).

List of creditors holding 20 largest unsecured claims or interests (Official Form B-4).

All of the following schedules must be submitted with the petition or within 15 days after filing the petition. (**NOTE:** Schedule C is required ONLY if debtor is an individual.) Summary of Schedules (Official Form B-6). Required schedules are as follows: Schedule A - Real Property; Schedule B - Personal Property; Schedule C - Property Claimed as Exempt; Schedule D - Creditors (people you owe) - Secured; Schedule E - Creditors - Priority; Schedule F - Creditors - Unsecured; Schedule G - Executory Contracts and Unexpired Leases; Schedule H - Codebtors; Schedule I - Current Income; Schedule J - Current Expenses

Statement of Financial Affairs (Official Form B-7). Must be submitted with the petition or within 15 days after filing the petition.

Statement disclosing compensation paid or to be paid to a "bankruptcy petition preparer" as defined in 11 U.S.C. §110.

NOTE: After a chapter 11 case is filed, additional requirements and information for chapter 11 cases will be provided by the United States Trustee's Office.

Voluntary Chapter 12 Case

If you submit an application to pay the filing fee in installments, you must be an individual (corporate entities may not pay fees in installments). The signed application must state the reasons why you cannot pay the full fee, that you have not paid your attorney or anyone else for assistance in filing your petition, and that you will not pay anyone until the full fee is paid. (Official Form B-3.) Local Bankruptcy Rule 1006-1 requires \$114.00 minimum first installment payment at the time of filing the petition.

Number of copies of petition and all schedules: Original and three.

Voluntary Petition (Official Form B-1)

List of Creditors (See Local Bankruptcy Rule 1007-1).

All of the following schedules must be submitted with the petition or within 15 days after filing the petition. (**NOTE:** Schedule C is required ONLY if debtor is an individual.) Summary of Schedules (Official Form B-6). Required schedules are as follows: Schedule A - Real Property; Schedule B - Personal Property; Schedule C - Property Claimed as Exempt; Schedule D - Creditors (people you owe) - Secured; Schedule E - Creditors - Priority; Schedule F - Creditors - Unsecured; Schedule G - Executory Contracts and Unexpired Leases; Schedule H - Codebtors; Schedule I - Current Income; Schedule J - Current Expenses.

Statement of Financial Affairs (Official Form B-7). Must be submitted with the petition or within 15 days after filing the petition.

Statement disclosing compensation paid or to be paid to a "bankruptcy petition preparer" as defined in 11 U.S.C. §110.

SOME IMPORTANT THINGS FOR YOU TO KNOW

Please note that the number of copies indicated above is the number required by the court. If you wish a copy returned to you, you must send an extra one. Also, if a voluntary petition is mailed to the court and you wish a copy returned, be sure to include a self-addressed, stamped envelope along with the extra copy you wish returned.

*The Notice to Individual Consumer Debtors form is required if the debtor is an individual with regular income and is not a stockbroker or commodity broker.

All partnerships, corporations and other business entities, other than a sole proprietorship, must be represented by an attorney duly admitted to practice in this court (Local Bankruptcy Rule 9010-1; U.S. District Court Local Rule 2.00).

YOU SHOULD READ ALL NOTICES YOU RECEIVE FROM THE COURT VERY CAREFULLY.

YOUR ATTENDANCE IS REQUIRED:

At the §341 meeting of creditors. It is normally held within 40 to 60 days after the date you file your bankruptcy petition. You will receive a notice from the Bankruptcy Noticing Center. This notice will contain a great deal of important information regarding your case. If you do not appear at the hearing, your case may be dismissed pursuant to Local Bankruptcy Rule 2003-1.

At any hearing on a reaffirmation agreement.

You should also attend any other hearing of which you receive notice in your case. Of course, should you subsequently obtain an attorney, there are many hearings which only your attorney needs to attend, and your attorney can advise you regarding the necessity for your attendance. There are no provisions for an attorney to be appointed to represent a debtor (at no charge) in filing a petition for relief under the Bankruptcy Code (11 U.S.C. §101, et seq.) However, if you cannot afford an attorney, you may call 1-800-273-1200. This number will provide you with the legal services office telephone number and address which is located in your area. Based upon your income, you may qualify for an attorney to represent you at no charge through the S.C. Bar Association's Pro Bono Program. If you do not qualify for an attorney at no charge under the Pro Bono Program, you may call the S.C. Bar Lawyer Referral Service at 799-7100 (in Columbia, S.C.) or at 1-800-868-2284 (outside Columbia, S.C.). This service will give you the name and telephone number of an attorney who has agreed to consult with you for least 30 minutes for a fee of \$25.00. Subsequent services and fees must be negotiated with the attorney.

In conclusion, if you have any questions that have not been answered by this information sheet, you should seek advice of an attorney or seek advice through the alternate services outlined above. This office cannot anticipate all issues that may arise in a particular case, outline every procedural requirement of the court, or advise you on a course of action which would constitute giving legal advice. This document is not a substitute for the requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of this court, or for legal advice. The court does not provide copies of the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure. If you intend to proceed without representation of counsel, you should be prepared to assume all responsibility of the outcome of your case and to familiarize yourself with the United States Bankruptcy Code, Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules. Local Bankruptcy Rule 1001-1 makes all Local Bankruptcy Rules applicable to pro se debtors as well as those represented by counsel.