

BANKRUPTCY TERMINOLOGY

ADVERSARY PROCEEDING

A lawsuit arising in or related to a bankruptcy case that is commenced by filing a complaint with the bankruptcy court.

ASSUME

An agreement to continue performing duties under a contract or lease.

AUTOMATIC STAY

An injunction that automatically stops lawsuits, foreclosure, garnishments, and all collection activity against the debtor the moment a bankruptcy petition is filed.

BANKRUPTCY

A legal procedure for dealing with debt problems of individuals and businesses; specifically, a case filed under one of the chapters of title 11 of the United States Code (the Bankruptcy Code).

BANKRUPTCY CODE

The informal name for title 11 of the United States Code (11 U.S.C. §§ 101-1330), the federal bankruptcy law.

BANKRUPTCY COURT

The bankruptcy judges in regular active service in each district; a unit of the district court.

BANKRUPTCY ESTATE

All legal or equitable interests of the debtor in property at the time of the bankruptcy filing. (The estate includes all property in which the debtor has an interest, even if it is owned or held by another person.)

BANKRUPTCY JUDGE

A judicial officer of the United States district court who is the court official with decision-making power over federal bankruptcy cases.

BANKRUPTCY PETITION

A formal request for the protection of the federal bankruptcy laws. (There is an official form for bankruptcy petitions.)

BANKRUPTCY TRUSTEE

A private individual or corporation appointed in all chapter 7, chapter 12, and chapter 13 cases to represent the interests of the bankruptcy estate and the debtor's creditors.

BUSINESS BANKRUPTCY

A bankruptcy case in which the debtor is a business or an individual involved in business and the debts are for business purposes.

CHAPTER 7

The chapter of the Bankruptcy Code providing for "liquidation," i.e., the sale of a debtor's nonexempt property and the distribution of the proceeds to creditors.

CHAPTER 7 TRUSTEE

A person appointed in a chapter 7 case to represent the interests of the bankruptcy estate and the unsecured creditors. (The trustee's responsibilities include reviewing the debtor's petition and schedules, liquidating the property of the estate, and making distributions to creditors. The trustee may also bring actions against creditors or the debtor to recover property of the bankruptcy estate.)

CHAPTER 13

The chapter of the Bankruptcy Code providing for adjustment of debts of an individual with regular income. (Chapter 13 allows a debtor to keep property and pay debts over time, usually three to five years.)

CHAPTER 13 TRUSTEE

A person appointed to administer a chapter 13 case. (A chapter 13 trustee's responsibilities are similar to those of a chapter 7 trustee; however, a chapter 13 trustee has the additional responsibilities of overseeing the debtor's plan, receiving payments from debtors, and disbursing plan payments to creditors.)

CLAIM

A creditor's assertion of a right to payment from a debtor or the debtor's property.

COMPLAINT

The first or initiatory document in a lawsuit that notifies the court and the defendant of the grounds claimed by the plaintiff for an award of money or other relief against the defendant.

CONFIRMATION

Approval of a plan of reorganization by a bankruptcy judge.

CONSUMER BANKRUPTCY

A bankruptcy case filed to reduce or eliminate debts that are primarily consumer debts.

CONSUMER DEBTS

Debts incurred for personal, as opposed to business, needs.

CONTINGENT CLAIM

A claim that may be owed by the debtor under certain circumstances, for example, where the debtor is a cosigner on another person's loan and that person fails to pay.

CREDITOR

A person to whom or business to which the debtor owes money or that claims to be owed money by the debtor.

DEBTOR

A person who has filed a petition for relief under the bankruptcy laws.

DISCHARGE

A release of a debtor from personal liability for certain dischargeable debts. (A discharge releases a debtor from personal liability for certain debts known as dischargeable debts (defined below) and prevents the creditors owed those debts from taking any action against the debtor or the debtor's property to collect the debts. The discharge also prohibits creditors from communicating with the debtor regarding the debt, including telephone calls, letters, and personal contact.)

DISCHARGEABLE DEBT

A debt for which the Bankruptcy Code allows the debtor's personal liability to be eliminated.

EQUITY

The value of a debtor's interest in property that remains after liens and other creditors' interests are considered. (Example: If a house valued at \$60,000 is subject to a \$30,000 mortgage, there is \$30,000 of equity.)

EXECUTORY CONTRACT OR LEASE

Generally includes contracts or leases under which both parties to the agreement have duties remaining to be performed. (If a contract or lease is executory, a debtor may assume it or reject it.)

EXEMPTION

Property that the Bankruptcy Code or applicable state law permits a debtor to keep from creditors.

FRAUDULENT TRANSFER

A transfer of a debtor's property made with intent to defraud or for which the debtor receives less than the transferred property's value.

FRESH START

The characterization of a debtor's status after bankruptcy, i.e., free of most debts. (Giving debtors a fresh start is one purpose of the Bankruptcy Code.)

INSIDER (of individual debtor)

Any relative of the debtor or of a general partner of the debtor; partnership in which the debtor is a general partner; general partner of the debtor; or corporation of which the debtor is a director, officer, or person in control.

JOINT PETITION

One bankruptcy petition filed by a husband and wife together.

LIQUIDATION

A sale of a debtor's property with the proceeds to be used for the benefit of creditors.

LIQUIDATED CLAIM

A creditor's claim for a fixed amount of money.

MOTION TO LIFT THE AUTOMATIC STAY

A request by a creditor to allow the creditor to take an action against a debtor or the debtor's property that would otherwise be prohibited by the automatic stay.

NO-ASSET CASE

A chapter 7 case where there are no assets available to satisfy any portion of the creditors' unsecured claims.

NONDISCHARGEABLE DEBT

A debt that cannot be eliminated in bankruptcy.

OBJECTION TO DISCHARGE

A trustee's or creditor's objection to the debtor's being released from personal liability for certain dischargeable debts.

PLAN

A debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time.

POSTPETITION TRANSFER

A transfer of a debtor's property made after the commencement of the case.

PREFERENTIAL DEBT PAYMENT

A debt payment made to a creditor in the 90-day period before a debtor files bankruptcy (or within one year if the creditor was an insider) that gives the creditor more than the creditor would receive in the debtor's chapter 7 case.

PRIORITY CLAIM

An unsecured claim that is entitled to be paid ahead of other unsecured claims that are not entitled to priority status. Priority refers to the order in which these unsecured claims are to be paid.

PROOF OF CLAIM

A written statement describing the reason a debtor owes a creditor money. (There is an official form for this purpose.)

PROPERTY OF THE ESTATE

All legal or equitable interests of the debtor in property as of the commencement of the case.

REAFFIRMATION AGREEMENT

An agreement by a chapter 7 debtor to continue paying a dischargeable debt after the bankruptcy, usually for the purpose of keeping collateral or mortgaged property that would otherwise be subject to repossession.

SECURED CREDITOR

An individual or business holding a claim against the debtor that is secured by a lien on property of the estate or that is subject to a right of setoff.

SECURED DEBT

Debt backed by a mortgage, pledge of collateral, or other lien; debt for which the creditor has the right to pursue specific pledged property upon default.

SCHEDULES

Lists submitted by the debtor along with the petition (or shortly thereafter) showing the debtor's assets, liabilities, and other financial information. (There are official forms a debtor must use.)

STATEMENT OF FINANCIAL AFFAIRS

A series of questions the debtor must answer in writing concerning sources of income, transfers of property, lawsuits by creditors, etc. (Official Form #7)

STATEMENT OF INTENTION

A declaration made by a chapter 7 debtor concerning plans for dealing with consumer debts that are secured by property of the estate.

SUBSTANTIAL ABUSE

The characterization of a bankruptcy case filed by an individual whose debts are primarily consumer debts where the court finds that the granting of relief would be an abuse of chapter 7 because, for example, the debtor can pay its debts.

341 MEETING

A meeting of creditors at which the debtor is questioned under oath by creditors, a trustee, examiner, or the United States trustee about his/her financial affairs.

TRANSFER

Any mode or means by which a debtor disposes of or parts with his/her property.

UNITED STATES TRUSTEE

An officer of the Justice Department responsible for supervising the administration of bankruptcy cases, estates, and trustees, monitoring plans and disclosure statements, monitoring creditors' committees, monitoring fee applications, and performing other statutory duties.

UNDERSECURED CLAIM

A debt secured by property that is worth less than the amount of the debt.

UNLIQUIDATED CLAIM

A claim for which a specific value has not been determined.

UNSCHEDULED DEBT

A debt that should have been listed by a debtor in the schedules filed with the court but was not. (Depending on the circumstances, an unscheduled debt may or may not be discharged.)

UNSECURED CLAIM

A claim or debt for which a creditor holds no special assurance of payment, such as a mortgage or lien; a debt for which credit was extended based solely upon the creditor's assessment of the debtor's future ability to pay.