

OPTIONS DURING YOUR BANKRUPTCY

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Introduction:

Now that you have decided to file for bankruptcy there are some decisions that you need to make regarding some of your debts. Mainly you need to make a decision about what your intentions are in regards to your secured debts. A secured debt is a debt where an item of your property has been pledged as collateral on the debt. It can also be secured if another person has received a judgment against you and has filed a lien against that property. You have four main options to consider.

Reaffirmation:

A reaffirmation agreement is a new contract signed between yourself and the creditor to repay the debt. The reaffirmation agreement takes the debt out of the bankruptcy, meaning it will not be discharged in the bankruptcy and creates a new obligation. Reaffirmation agreements can be a very good thing for you as a debtor, because it can help you save your car, house, or business equipment that is collateral on a loan. Reaffirmation agreements are also a valuable tool to help rebuild your credit score.

As good and helpful as reaffirmation agreements are, be very cautious about who you sign reaffirmation agreements with. While it is noble to want to keep all of your creditors and affiliations happy, it is not possible. Do not let ordinary unsecured creditors try to talk you into signing reaffirmation agreements and being strapped down to a debt that you are able to discharge in bankruptcy. As mentioned above, you should only consider a reaffirmation agreement with a creditor that holds a security interest in some of your property.

Because you are represented by an attorney, all reaffirmation agreements that you wish to sign during the bankruptcy must have your attorney's signature on them in order for the court to approve them. Ethically the attorney can only sign the reaffirmation agreement if it would not be an undue hardship for you to repay that amount to the creditor. An undue hardship is presumed if your monthly expenses are more than your monthly net income. It may be possible even with a presumption of hardship,

but this will be decided on a case by case basis by your attorney.

Surrender:

You always have the option of surrendering the secured property to the creditor. This is what it sounds like, you will be giving back the property to the creditor and will no longer have the debt or the property. This would probably be the best option either when the property is no longer in working condition as in the case of a car or there is no way that you will ever be able to pay off the loan. This is especially true if the loan is for more than the property is worth and it would be cheaper to buy the same property again rather than pay off the loan or if the property is worth too much and does not fall into protected property under the law. Your attorney will inform you if this applies to you.

Redemption:

This is the lesser used of all of the options and should only be considered when the property is worth substantially less than the loan on the property. In a redemption, you as the debtor would pay the creditor the fair market value of the property in **one lump sum** and then you would own that property with no money due. The important thing to remember is that this must be done in one payment, which makes it very hard for a person in bankruptcy to accomplish. Creditors often do not want to allow this option, although they must if it is forced in by the bankruptcy court. What this means is they will dispute our valuation and will try to get the highest possible value out of the property. If you are considering this option, please talk to your attorney about valuing your property.

Do Nothing Keep Paying:

This is called ride through and some creditors will not allow this. This means the debt is discharged but you are voluntarily continuing to pay it. This is only an option if you are still current on your payments. If you miss a payment, the creditor does not need to go through any formal procedures in order to seize the collateral on the loan.