

# 5 Common Myths & The Many True Facts About Bankruptcy

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## 1. Introduction

Bankruptcy is easily one of the most misunderstood legal processes. Most people look at bankruptcy as somehow signaling the end of everything. It's as if once you file, your career is immediately over, your life is ruined, and there's no going back.

Like most unknowns, bankruptcy has somehow built up a reputation for being big and scary when in fact it's not anywhere near as frightening once you understand how it all works. The truth about bankruptcy is that it's nothing to be afraid of; in some instances, it's actually very beneficial.

Before we go any further, let me introduce myself. My name is Arnold T.D. Lee of Lee Law Office, PLLC and throughout the years of my bankruptcy practice one thing has really stood out to me: Most people are severely misinformed about bankruptcy. I'm writing this book to first and foremost dispel those bankruptcy myths once and for all and shine some light on how bankruptcy actually works.

Filing for bankruptcy is not difficult and it's not the end of the world! Depending on your situation, it could be the best decision you've ever made. We'll be looking at how Federal and Mississippi state bankruptcy laws actually favor the filer in several different ways, allowing you to come out on top.

Whether you've given serious consideration to filing for bankruptcy, or are just curious to know more about the real facts, you're in the right place. If you find that you have more questions that aren't fully covered in this book, you can feel free to visit my website at <http://www.msbankruptcyattorney.com> and contact me directly.

*Arnold D. Lee*

## 2. 5 Common Myths About Bankruptcy

Let's actually lay some groundwork here before getting ahead of ourselves.



First of all, what is bankruptcy, exactly? Imagine you're in a situation where you're buried under mountains of debt. Some of you may not have to imagine – you're already in that situation. By filing for either Chapter 7 or Chapter 13 bankruptcy (more details on those later) you can put yourself under the

protection of the court to help either wipe out all of your debts, with a few exceptions, in a Chapter 7, or repay some debts, either partially or in full, while wiping out certain other debts in a Chapter 13. But the end goal is the same – bankruptcy protects you from creditors and bill collectors who constantly hound you to make payments that you probably don't have the money for.

*But doesn't bankruptcy completely ruin my credit? Won't the bankruptcy court take my income tax return and all my property? I'll never be able to recover from this, right?*

I have clients ask these very same questions (and more) almost on a daily basis, so let's go over some of the common myths about bankruptcy.

### **Myth #1- Bankruptcy is for Deadbeats Who Can't Handle Their Own Problems**

There's a certain stigma attached to bankruptcy that's hard to get past. It's generally seen as the “loser's way out.” The truth is actually the complete opposite.

Bankruptcy laws are specifically put in place to protect perfectly normal, average people who happen to find themselves between a rock and a hard place.

Most people end up filing for bankruptcy after a life changing event, such as a job lost, getting a divorce, or because of unforeseen medical bills. There's no way we can always see what the future holds in store for us, and sometimes the best laid plans fall apart because of something completely out of our control. The problem is something like that only has to happen once to put you behind on your bills for years to come. As the months pass, you just get farther and farther behind on your payments.

Keep this in mind: Bankruptcy is a way out. Think of it more as a plan for the future to make it easier to get your finances under control.

### **Myth #2- Bankruptcy Will Absolutely Destroy Your Credit**

In a world where all of our financial mistakes are kept on record, it's no surprise that filing for bankruptcy may have a negative impact on your credit report. But stop and think about that for a second. If you're only filing in the first place because you're already buried under debt, your credit report probably isn't all peaches and cream anyway. In fact, although it's not always the case, someone who decides not to file for bankruptcy will typically end up with a lower credit score than someone in the exact same situation who opts to file.

It all comes down to where you see yourself going. At the pace you're paying off debt now, do you see yourself being debt free in the next three years? Five years? Ten years? Or do you see yourself digging further into the hole?

In other words, bankruptcy gives you the opportunity to make a fresh go of things and focus on rebuilding that credit score up to a positive number. You have to stop digging before you can begin to climb.

### **Myth #3- Bankruptcy Will Take Everything You Own**

This is really the biggest concern that I hear from individuals who are thinking about filing for bankruptcy. By filing for bankruptcy, won't I lose all of my property? Due to "exemptions", which means things the bankruptcy court is **not** allowed to take, most people who file bankruptcy get to keep their property, like their car and house, for example. Now, the details of every state law are different, but they all allow for *exemptions*. That is, there are certain things which you are entitled to keep.

Under Mississippi bankruptcy laws, (may not be applicable outside the State) you are allowed to keep:

- Up to \$5,000 in state income tax return
- Up to \$5,000 in federal income tax return
- Up to \$5,000 in earned income tax credit
- Up to \$10,000 in personal property, including your household goods and clothes, and cash
- Your wages
- Social Security benefits
- Up to \$75,000 of equity in your home
- Proceeds from insurance
- Worker's Compensation proceeds

- Professional tools and books of your trade
- Annuities, pensions, retirement accounts, profit-sharing
- Individual Retirement Accounts
- Health Savings Accounts
- One mobile home
- Military Savings Accounts
- Unemployment benefits

While this is not a complete list of property you can keep, as you can see, filing for bankruptcy won't exactly seize everything you own and kick you out on the street. The thing to remember is that these laws are in place to help you, not to keep you under. Remember, it's all about a fresh start. Now, how can you have a fresh start if they take everything?

#### **Myth #4- Both Spouses Are Required to File for Bankruptcy**

There may be some cases where it would be beneficial for spouses to file jointly, but the law does not require a joint filing of married couples. Generally speaking, it's not uncommon for one single spouse to have a lot of debt in only their name, which would not affect the other spouse. In a situation like that, the other spouse does not have to file unless he or she wants to wipe out his or her own debt.

However, there are other cases where *both* partners are liable for a certain debt; this can happen when a credit card or bank loan has been put under both their names. In this situation, I always advise both spouses to file because if only one

spouse files, then only that spouse will receive the protection and the benefits of the bankruptcy. The non-filing spouse is still subject to collection proceedings. But again, even in this situation, the law does not require both spouses to file. Thus, if you're married and seriously considering filing for bankruptcy, what you should be asking yourself is not, "Can I file for this by myself?" You should be asking, "Would it be advantageous to me right now to file individually, or would there be greater benefit to filing jointly?"

### **Myth #5- The New Law Makes it Nearly Impossible to File for Bankruptcy**

In 2005, Congress passed the *Bankruptcy Abuse Prevention and Consumer Protection Act*, an act that made multiple changes to the bankruptcy laws across the country. A lot of my clients are now under the impression that they can't file for bankruptcy anymore because of those changes.

The truth is that for those who really need bankruptcy, *the 2005 changes won't prevent them from filing in any way whatsoever*. The only real difference is that now it is slightly more expensive and there are a few more hoops you have to jump through. When this law was first enacted, a lot of people were freaking out because of the strict regulations. Now, seven years later, we're seeing that fewer people were actually affected by the act than we originally thought.

Here are a few of the noteworthy changes that we've had to put up with since 2005:

- The *Means Test* – If you want to file for Chapter 7 bankruptcy, you have to take the "means test," which will determine whether or not you make too much money according to bankruptcy guidelines.

- *Credit Counseling* – Applicants also need to complete a credit counseling course to coach them on the proper way to budget for short and long term financial goals. These courses are inexpensive and easy to complete.

There were of course other changes to the law, but the point is that sure, it may be a little harder now, but it's definitely not impossible. For the most part, anybody who was eligible to file before 2005 is still eligible. One of the major impacts was that it's now more recommended that you work with a lawyer to help you navigate the twisting waters of bankruptcy proceedings.

Why were these ridiculous changes enacted in the first place? In short, they were meant to stop fraudulent bankruptcy filing and “dishonest debtors” who just use the system as a way out. But guess what? The rates for filing bankruptcy are just the same now as they were before 2005. The “dishonest debtor” is the real myth here, something that federal lawmakers have since realized.

### 3. Bankruptcy and the Bible



Bankruptcy goes back farther than most people think. In fact, the Bible deals specifically with the idea of bankruptcy in several places. And despite what you may think, it's not exactly seen as a 'sinful' practice.

Every denomination has their own interpretation of the Bible, but one thing most people can agree on is that the Scripture is very much in favor of being strong and responsible in all your financial practices. It's because of this that so many people wrongly believe the Bible to be against bankruptcy. They would even go so far as to say that it's immoral to file for bankruptcy.

Let's be clear about this: The Bible does state that Christians should do everything in their power to repay debts as a service to the person or institution who lent them money in the first place. However, blind compulsion to repay a debt at the risk of everything else goes against the true principles which the Bible speaks about. You also have a right to call for a cancellation of debts after a certain amount of time. Nobody should be in debt to another person for their entire life.

#### **Scriptural Lessons of Debt Cancellation**

*Deuteronomy* makes this abundantly clear in *Chapter 15, verses 1 and 2*:

*“At the end of every seventh year you must cancel the debts of everyone who owes you money. This is how it must be done. Everyone must cancel the loans they have*

*made to their fellow Israelites. They must not demand payment from their neighbors or relatives, for the Lord's time of release has arrived."*

This strange sounding concept of debt forgiveness was never vague in the Bible. Every 7 years, all debts were canceled and debtors were given a fresh start. Both the Old Testament and the New Testament taught that mercy, compassion, and forgiveness were the most important things in life, and economics came after. That includes loans and debts.

In the New Testament, Jesus prayed "Forgive us our debts as we forgive our debtors." (Matthew 6:12)

### **Modern Bankruptcy Laws Are Modeled After This Principle**

These days, bankruptcy laws stem from these very same Biblical principles. The underlying notion for this is that the cancellation of debt will help preserve the family unit and the individual – both of which are held sacred in the eyes of the Lord.

In the founding of our country, our very forefathers recognized the importance of this system, and put in place a system that would uphold those values and principles. The founding fathers put into the U.S. Constitution, in *Article 1, Section 8, Clause 4*, authorizing Congress to enact "uniform Laws on the subject of Bankruptcies throughout the United States." That system operates in order to provide debtors with a measure of relief that may otherwise destroy them and their families.

## 4. Should I File for Bankruptcy?



*It all comes down to this question: How do I know if I'm in a position where filing for bankruptcy can be to my benefit? Clearing away all the myths is important, but it still doesn't give us the whole picture.*

Bankruptcy laws will never provide blanket protection for a debtor. That is, there are many debts that will be cleared when you file for bankruptcy, but not all of them will. Each debt is itemized and categorized individually to figure out where it falls under the wide picture. Most debt will be classified under two terms: *Secured and non-secured debt.*

If you're seriously thinking about filing for bankruptcy, you need to understand the difference between these two terms, because they can make a big difference in the long run.

### **Secured Debt**

In the simplest possible terms, a secured debt is backed by collateral on your part, such as a home or a car, or any other type of possession. Large loans are typically secured, and when you sign the contract you agree that if you don't make the payments, this collateral is forfeit to the lender.

A good example of this is, say, if you request a bank loan in order to buy a car. Your new car becomes the security for the lender. If you don't pay back the money, the lender can take the car and resell it in order to pay off the loan money.

Here are a few types of secured loans:

- Auto loans
- Home equity loans or mortgages – Much like the example with the car, in this case your house would be the collateral in the event of nonpayment.
- Personal loans – Often a bank or private lender will lend money for personal reasons, but with some form of collateral specified in the agreement (again, usually a vehicle or property).

In all of these cases, if you don't pay your debt they have something they can take from you. Now, those are all examples of secured loans, but they're also examples of *consensual* secured loans. That is, you went into the agreement *knowing* that you would be putting up some form of collateral if you weren't able to pay the loan back.

If there's a category for consensual loans though, of course there has to be an opposite category. There are situations where you don't pledge collateral when receiving the loan, but where the lender can still file to have your property seized. These are known as **Nonconsensual Liens**.

In case you aren't clear about when something like this would happen, here are a few examples:

- If a creditor files for a judgment against you, they may be entitled to

property or assets up to the amount specified in the judgment. In other words, if you don't pay, they come after your home.

- In some instances the law will record a lien against your property. Let's say you have a contractor build your home, but are unable to pay him after it's completed. He can file to gain possession of your home.
- Taxes – Yelp, if you don't pay your income taxes (or any other type), the government can come after you and seize property.

### **Unsecured Debt**

With an unsecured debt, there is no collateral up against the loan. This is usually the case with credit cards and medical bills. They will have to take the case to court and try to turn it into a nonconsensual lien.

A few other forms of unsecured debt may be:

- Student loans
- Rent
- Credit cards
- Medical bills
- Utility payments
- Check cashing loans
- Membership fees (to gyms, etc.)

### **What Does it All Mean?**

*So, how does this affect you?* If you have secured debt, in a Chapter 7, you can keep the collateral if you aren't behind on the payments. On the other hand if you are behind on debts that are secured by collateral, then you want to file a Chapter 13 bankruptcy, where a payment plan is set up to catch up on the debt or to pay the debt off in its entirety, which is usually the cases with automobiles.

In both a Chapter 7 and a Chapter 13 bankruptcy, unsecured debts are wiped out. However, in a Chapter 13, if you have a \$100 or more after paying your monthly Chapter 13 plan payment and after paying your monthly household expenses, like your electric and gas bills for example, then you may have to repay some of your unsecured debt. It all comes down to the individual cases.

If you're still not clear on the differences between secured and unsecured debt, or if you want to talk to me to learn more about your own unique situation, visit my website [www.msbankruptcyattorney.com](http://www.msbankruptcyattorney.com) to set up an appointment. I'll be more than happy to discuss your situation with you.

## 5. Understanding the Difference Between Chapter 7 and Chapter 13 Bankruptcy



We've briefly mentioned Chapter 7 and Chapter 13 bankruptcy throughout the book but never really taken the time to explain what they actually mean. There are some major differences between the two that determine the way your debts will be settled.

What are those differences? The easiest way to explain these is to break them down into separate sections.

### **Chapter 7 Bankruptcy- What is It?**

The main point for Chapter 7 bankruptcy is that it involves *liquidation of assets* – that is, your non-exempted property will be taken and sold to cover the outstanding debts. However, due to the many property exemptions that I discussed above, this rarely happens—but you still get your debts wiped out. The most common reason the majority of people file for Chapter 7 bankruptcy is because they don't have many assets or property to begin with, aside from basics such as clothing and furniture. This way there is little for the bankruptcy court to seize, allowing you to get a fresh start with a minimal amount of pain.

You would probably be in a situation like that when all or nearly all of your income goes towards the basic expenses every month – stuff like food, rent, and clothing. This leaves pretty much nothing with which to pay off debts. Millions of

people live like this all over the country, and Chapter 7 bankruptcy is a perfectly viable option for this type of situation.

### **The Advantages of Chapter 7**

Under Chapter 7 bankruptcy, the vast majority (if not all) of your *unsecured* debt will most likely be discharged, or eliminated completely. As explained above, if you have secured debts like a car and a house, you can continue to have these debts, if you so choose, if you continue to make your monthly payments and are not behind on these debts. Otherwise, you may have to file a Chapter 13.

Another advantage of Chapter 7 is that it's a quick process – like ripping off a band-aid – small pain, small loss. Most people receive a full discharge after just a few months. Even better, creditors aren't allowed to contact you during the proceedings. Once your paperwork hits the system, the court will implement what's called a *stay*. Basically, that means that all collection proceedings, including collection phone calls and letters, repossessions and garnishments, must immediately stop. The stay lasts during the entire bankruptcy process and after the bankruptcy is complete. Thus, your creditors should not be contacting you about any debts that were wiped out in your bankruptcy. If creditors are still contacting you after you have filed or after your bankruptcy is completed, you should contact your bankruptcy attorney immediately for help.

### **How to Qualify for Chapter 7**

In order to qualify for Chapter 7 bankruptcy you must pass the “*means test*.” The means test determines whether or not you make too much money according to the new bankruptcy law to file a Chapter 7 bankruptcy. The bankruptcy court uses,

and thus your bankruptcy attorney as well, a chart compiled by the Census Bureau and the IRS that shows the median income for the various household sizes and for each state. You can find this chart at the U.S. Justice Department's website at [www.justice.gov/ust/eo/bapcpa/20120501/meanstesting](http://www.justice.gov/ust/eo/bapcpa/20120501/meanstesting). And if you earn at or above the median income for your household size for your state then you most likely will not qualify to file a Chapter 7 bankruptcy.

Even if you fall below the median income for your household size for your state, but if you have a \$100 left over after you pay your monthly household expenses like rent or a mortgage, your light bill and gas bill for example, then you still won't be able to file a Chapter 7 bankruptcy.

You can speak with a bankruptcy attorney to find out about the means test in your state. And remember, even if you don't pass the Chapter 7 means test, you can still file under Chapter 13 bankruptcy!

### **Chapter 13 Bankruptcy- What is It?**

Unlike Chapter 7, which involves supposedly liquidation of assets (which I explained earlier rarely happens), Chapter 13 takes a different approach. Under Chapter 13 bankruptcy, your bankruptcy attorney, with your help, will set up a payment plan that will be at least 3 years and no more than 5 years to either catch up on debts, like mortgages, and payoff the debts, like automobiles—most likely at a lower interest rate than your current one. But you must have sufficient income to make the monthly Chapter 13 plan payments and your monthly household expenses.

### **The Advantages of Chapter 13**

The biggest advantage to filing Chapter 13 bankruptcy is that you can be behind on your secured debts like house notes and car notes. You can be behind on these debts because Chapter 13 is designed to help people get caught up on these types of debts. You keep the same house, keep the same cars, and life continues as usual; except for the fact that bill collectors aren't blowing up your phone every evening.

The other advantage of Chapter 13 – debt collectors are not allowed to get in contact with you during the entire protection period afforded you by Chapter 13 protection. Again, this period can last anywhere from 3-5 years. Now don't get me wrong, you'll still be paying off your debts, but with an extended repayment schedule and no harassment, 99% of the stress goes out the window.

### **How to Qualify for Chapter 13**

Qualification for Chapter 13 is simple: you must be able to demonstrate that you can afford your Chapter 13 plan payment and your monthly household expense as discussed above, and you must have less than \$360,475 in unsecured debts and less than \$1,081,400 in secured debts.

## 6. What Paperwork and Documents Do I Need to File?



Once you begin to consider bankruptcy as a real option, it's time to start gathering together the necessary paperwork and documents. Your lawyer can help you get these sorted out, but in the interests of preparedness here are some of the items you will most likely need. Keep in mind that the requirements can change over time, but at the time of writing, these are current requirements.

### **Pay stubs from the past 6 months**

In order to take the *means test*, you will need to provide proof of your income for the past 6 months. This can be in the form of pay stubs or a print out from your job showing what your gross pay and deductions for each pay periods for the past 6 months. You will also need to provide a list of monthly expenses. Keep in mind that some expenses may not be paid monthly, such as auto insurance or homeowner association fees. If you have recurring expenses that occur bi-monthly, bi-annually (every 6 months), or annually, break those down to figure out what the monthly charge equals and use that figure.

### **The last 2 years of tax returns for both federal and state taxes**

This will act as further proof of your income for the court and for creditors. The most recent tax returns will be submitted to the bankruptcy court.

### **Credit reports**

You must provide credit reports from all three credit bureaus. I usually recommend [www.annualcreditreport.com](http://www.annualcreditreport.com) for my clients. That service allows you to receive a free credit report once a year. The purpose of the credit reports is to allow your bankruptcy attorney to list all your debts.

### **Bank statements for the past 2 months**

You must provide bank statements from all checking and savings accounts in order to help the court assess your financial situation. If you have not kept your bank statements, you can usually access them online, or ask the bank to reissue them to you.

### **Credit counseling report from an approved credit counselor agency**

As mentioned earlier, under the 2005 bankruptcy reform law, bankruptcy filers are now required to go through credit counseling before they file. Once you complete the counseling, the agency in which you used to do the counseling will issue a certificate certifying that you complete the counseling for the bankruptcy court. I've used the services at Pioneer Credit Counseling for years with absolutely no issues. You can always use your own credit counselor, but if you wish to use Pioneer you can either use their online service at [www.pioneercredit.com](http://www.pioneercredit.com) or you can speak with them directly over the phone at 1-866-210-3590. The service is simple and easy. You can find a list of approved credit counseling companies at the U.S. Department of Justice's website at <http://www.justice.gov/ust/eo/bapcpa/ccde/>.

Always speak with your lawyer because depending on your own individual case you may be required to bring in additional documentation.

## 7. What Happens After I File Bankruptcy?

So you've made the decision to file for bankruptcy. Assuming you followed all the advice in this book and consulted a professional, you've most likely made the right decision. Congratulations! But what happens now?

First of all, **the collection attempts are going to stop!** That should be a welcome breath of fresh air for anybody. The law forbids creditors, debt collectors, collection agencies, and everybody else from calling, visiting, or emailing you during the course of your bankruptcy proceedings.

### The Meeting of Creditors

Most people ask me if they will have to attend court when they file for bankruptcy. Ninety percent of the time, the answer is no. However, you are still required to attend a meeting which will be conducted by the bankruptcy trustee, that's the person who works with the bankruptcy court that is in charge of your case. This is known as the "Meeting of the Creditors" or "341 meeting".

During the meeting, you will be placed under oath and the trustee will question you about the information you've provided regarding your finances, expenses, and debts. Despite what the name implies, most of the time your creditors won't be present at this meeting. Typically it's a party of three: *You, your attorney, and the trustee*. Creditors are allowed to come and ask questions, but this rarely happens.

To help you breathe a little easier (the idea of a meeting like this can be stressful, to say the least), this is a perfectly normal proceeding in a bankruptcy case. The trustee won't be trying to trick you into lying, and your attorney will be present to make sure of it. It's simple, routine and most cases go through it without a hitch.

### **The Financial Management Course**

Before you can receive a discharge in a Chapter 7 or a Chapter 13 you must complete a personal financial management course. You don't have to go everywhere to complete this course, it is usually done over the internet or over the telephone, depending on which company you use. The course must be completed no more than 60 days after the first date set for the meeting of creditors in a Chapter 7, and no later than your last plan payment in a Chapter 13. Again, the course is usually extremely easy, and stress free. You find approved companies that offer this course at the U.S. Department of Justice's website at <http://www.justice.gov/ust/eo/bapcpa/ccde/>.

The purpose of these courses is simply to educate you, the debtor, on proper financial management. You'll learn the importance of setting long and short term budgeting goals, and basically learn how to manage your finances successfully.

### **The Discharge**

This is the final step. When you receive your discharge, you are free from liability for the specified debts. A discharge is an order from the bankruptcy court that says you have done everything you were suppose to do under the bankruptcy law and now your debts are **forever** wiped out. Discharges may not cover all of

your debts (although sometimes they do), but what's important is that you never have to hear from creditors for those discharged debts again.

When the discharge is issued it will go into effect immediately, and you'll receive a copy of the discharge order in the mail. The length of time depends on the case, but typically the discharge will be issued in about 4 months from the time you initially file for bankruptcy in a Chapter 7, and after you complete all your Chapter 13 plan payments in a Chapter 13.

### **Peace of Mind**

Now is the time to sit back and take a good, long deep breath. Nothing lies in front of you now except the potential for a brighter future. Bankruptcy can be a stressful process, but it's nothing like many people would have you believe. Don't doubt it – long term debt is a thousand times more stressful than going through bankruptcy proceedings.

With the debt wiped from your record, you can finally take charge of your life and live without constant fear of collection calls interrupting your life.

As the final chapter in this book, we're going to cover a few frequently asked questions (FAQs) about bankruptcy that you might still be unsure about. Feel free to use this book as a reference guide whenever you're going through your own bankruptcy, and don't hesitate to contact me personally through my website at [mybankruptcyattorney.com](http://mybankruptcyattorney.com) to answer any questions.

## **8. Bankruptcy FAQ**

### **Will I lose my tax return?**

Mississippi bankruptcy law allows you to exempt or keep up to \$5,000 from your federal tax return, \$5000 of earned income credit proceeds, and \$5,000 from your state tax return.

### **Will I lose all my property?**

No. As discussed in Chapter 2 on Myth #3, due to the numerous exemptions, it has been my experience that rarely does a person loses any property in bankruptcy.

### **What are the fees involved?**

Attorney's fee varies from attorney to attorney. But the filing fees that have to be paid to the bankruptcy court are universal. As of November 1, 2011, you are required to pay:

-\$306 to the bankruptcy court as a filing fee to file Chapter 7

-\$281 to the bankruptcy court as a filing fee to file Chapter 13

Credit counseling also varies but it usually a small fee, but always be sure the counseling providers are accepted by the Department of Justice.

### **How are student loans handled?**

Student loans are considered unsecured debts, but are not eligible for bankruptcy discharge unless you can prove that they constitute an “undue hardship” on your life or the life of your family, which is extremely hard to do.

### **How does bankruptcy affect child support?**

Filing for bankruptcy will not eliminate any requirements for child support or alimony, or any other maintenance or support payments.

### **Do any co-debtors need to file bankruptcy as well?**

If you have a co-debtor, or someone who co-signed on a loan which has put you into debt, the law can get tricky sometimes. However, the law is clear on one point: Only the person filing will have their liability erased.

### **How often can I file for bankruptcy?**

You may file for Chapter 7 bankruptcy every eight years and can typically file for Chapter 13 more often than that. You can file another Chapter 13 two years after a previous Chapter 13 in which you received a discharge and still be eligible to have your unsecured debts discharged in the new case.

### **How does bankruptcy affect check cashing loans?**

Check cashing loans are short term loans that typically come with high interest rates. This is secured with a check which has been post-dated to a date when the borrower intends to have the money available to pay off the loan. Thus, the debt is unsecured and is generally eligible to be wiped out.

### **Will people know that I filed for bankruptcy?**

Bankruptcy is understandably a very private affair, so a big question that comes up is whether people will know about it. I always tell my clients this: The court will keep a file on record containing all of the documents involved in the case. If anybody wants to know whether or not you've ever filed for bankruptcy, they would need to go to the specific court where you filed, search for the case number, and then get the file from the clerk. It can be done, but it's not exactly publicly announced information.

### **Will my employer know I filed for bankruptcy?**

Under Chapter 7 bankruptcy there is no reason that your employer would ever know about your bankruptcy, nor would they usually care. Under chapter 13, they will know because they must send the agreed-upon amount from your paycheck to cover your chapter 13 plan payment.

### **When will the garnishment stop?**

Garnishment ceases as soon as your paperwork is filed. As long as the debts are discharged, it will stop for good.

### **Do I have to have a certain amount of debt in order to file for bankruptcy?**

To answer the question directly, there is no minimum debt requirement to file for either Chapter 7 or Chapter 13 bankruptcy. The maximum allowed debt to file under Chapter 13 is \$360,475 in unsecured debt and \$1,081,400 in secured debt. There is no maximum for Chapter 7.

### **Will I lose my retirement plan or pension if I file for bankruptcy?**

Under current Mississippi exemption law, all retirement plans are exempt from creditors. Examples of the types of plans exempt are 401(k)s, 403(b)s, Keoghs, IRAs, defined-benefit plans, and profit-sharing plans.

## Who is Arnold T.D. Lee



Arnold T.D. Lee is a native Mississippian born and raised in Mound Bayou, Mississippi. Arnold is the founder of Lee Law Office, PLLC which has locations in Greenville and Jackson, Mississippi.

Arnold practices law mainly in the area of bankruptcy. He has assisted Mississippians file for bankruptcy all across the state. He has a passion for helping people in need, especially those struggling with debt. Over the years he has learned that many people have a lot of questions about bankruptcy and also have a lot of misinformation about the subject. Thus, he felt the need to write this book.

Arnold graduated from Delta State University in Cleveland, Mississippi where he received a Bachelor's degree in Education, and a Master's of Education. He taught mainly Economics at his alma mater of John F. Kennedy High School before attending law school at the University of Mississippi School of Law. Even in law school he continued to teach where he taught Research and Writing to first year law students. Arnold was also the chairman of the law school's prestigious Moot Court Board. Additionally, he earned Best Written Brief in the competitive Moot Court Board Competition.

After graduating from Ole Miss Law, he joined a large civil defense firm where he practiced primarily in the area of Product Liability before starting his own law firm. Since starting his own law firm, he has helped an untold number of

people facing incredible amounts of debt; facing foreclosure; facing wage garnishment; facing car repossession; and the likes file for bankruptcy. Arnold has also been a featured speaker.

Arnold is married to his lovely wife Erica, and they have four dogs: Petey, Teddy, Oreo, and D.J.

Follow Arnold T.D. Lee on Twitter at [Twitter.com/ArnoldTDLee](https://twitter.com/ArnoldTDLee) and on Facebook.