
Consumer Pro Se Debtor Guide

United States Bankruptcy Court Northern District of Iowa

425 Second Street SE Cedar Rapids
320 Sixth Street, Sioux City



**THE BANKRUPTCY CLERK'S OFFICE IS PROHIBITED BY 28
U.S.C. SECTION 955 FROM GIVING LEGAL ADVICE OR
ASSISTING WITH THE PREPARATION OF FORMS.**

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PREFACE

The laws, codes and rules governing bankruptcy procedures are complicated and intricate in detail. This guide is not intended to serve as a “How To” manual, nor is it intended to advise you of your legal rights or responsibilities under bankruptcy. The purpose of this guide is simply to shed light on some common misconceptions and answer frequently asked questions posed to this court by debtors filing bankruptcy without the assistance of legal counsel (pro-se).

NOTICE TO INDIVIDUAL CONSUMER DEBTOR

The purpose of this notice is to acquaint you with the four chapters of the federal Bankruptcy Code under which you may file a bankruptcy petition. The bankruptcy law is complicated and not easily described. Therefore, you should seek the advice of an attorney to learn of your rights and responsibilities under the law should you decide to file a petition with the court. Neither the judge nor the court’s employees may provide you with legal advice.

Chapter 7: Liquidation (\$209 Filing Fee)

1. Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay any significant part of their existing debts.
2. Under Chapter 7 a trustee takes possession of all of your property. You may claim certain of your property as exempt under governing law. The trustee then liquidates the non-exempt property and uses the proceeds to pay your creditors according to the priorities of the Bankruptcy Code.
3. A debtor’s purpose for filing a Chapter 7 case is normally to obtain a discharge of existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, your discharge may be denied by the court, and the purpose for which you filed bankruptcy will be defeated.
4. Even if you receive a discharge, there are some debts that are not discharged under the law. Therefore, you may still be responsible for such debts as 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 a drunk driving incident.
5. Under certain circumstances you may keep property that you have purchased subject to a valid security interest. Your attorney can explain the options that are available to you.

Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$194 Filing Fee)

1. Chapter 13 is designed for individuals with regular income who are temporarily unable to pay their debts, but would like to pay all or part of their debts in installments over a period of time. You are only eligible for Chapter 13 if your debts do not exceed certain

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- dollar amounts set forth in the Bankruptcy Code.
2. Under Chapter 13, you must file a plan with the court to repay your creditors all or part of the money that you owe them, using your future earnings. Usually the period allowed by the court to repay your debts is three years, but not more than five years. Your plan must be approved by the court before it can take effect.
 3. Under Chapter 13, unlike Chapter 7, you may keep all of your property, both exempt and non-exempt, as long as you continue to make payments under the plan. After completion of payments under your plan, your debts are discharged with the exception of alimony and support payments, certain kinds of taxes owed for less than three years, and long term secured obligations.

Chapter 11: Reorganization (\$839 Filing Fee)

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

Chapter 12: Family Farmer, when legislatively enacted (\$239 Filing Fee)

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.

STATEMENT OF INFORMATION PREPARED BY THE U.S. TRUSTEE REQUIRED BY 11 U.S.C SECTION 341

Pursuant to the Bankruptcy Reform Act of 1994, the Office of the United States Trustee, United States Department of Justice, has prepared this information sheet to help you understand some of the possible consequences of filing a bankruptcy petition under Chapter 7 of the Bankruptcy Code. This information is intended to make you aware of:

1. the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;
2. the effect of receiving a discharge of debts;
3. the effect of reaffirming a debt; and
4. your ability to file a petition under a different chapter of the Bankruptcy Code.

There are many other provisions of the Bankruptcy Code that may affect your situation.

This information sheet contains only general principles of law and is not a substitute for legal advice. If you have any questions or need further information as to how the bankruptcy laws apply to your specific case, you should consult with an attorney.

What Is a Discharge?

The filing of a chapter 7 petition is designed to result in a discharge of most of the debts you listed on your bankruptcy schedules. A discharge is a court order that says you do not have to repay your debts, but there are a number of exceptions. Debts which may not be discharged in your chapter 7 case include, for example, most taxes, child support, alimony, and student loans; court ordered fines and restitution; debts obtained through fraud or deception; and personal injury debts caused by driving while intoxicated or taking drugs.

Your discharge may be denied entirely if you, for example, destroy or conceal property; destroy, conceal or falsify records; or make a false oath. Creditors cannot ask you to pay any debts which have been discharged. You can only receive a chapter 7 discharge once every six (6) years.

What Are the Potential Effects of a Discharge?

The fact that you filed bankruptcy can appear on your credit report for as long as ten years. Thus, filing a bankruptcy petition may affect your ability to obtain credit in the future. Also, you may not be excused from repaying any debts that were not listed on your bankruptcy schedules or that you incurred after you filed bankruptcy.

What Are the Effects of Reaffirming a Debt?

After you file your petition, you might consider reaffirming a debt. Reaffirming a debt means that you sign and file with the court a legally enforceable document, which states that you promise to repay all or a portion of the debt that may otherwise have been discharged in your bankruptcy case. Reaffirmation agreements must generally be filed with the court within 60 days after the first meeting of creditors.

Reaffirmation agreements are strictly voluntary - they are not required by the Bankruptcy Code or other state or federal law. You can voluntarily repay any debt instead of signing a reaffirmation agreement, but there may be valid reasons for wanting to reaffirm a particular debt.

Reaffirmation agreements must not impose an undue burden on you or your dependents and must be in your best interest. If you decide to sign a reaffirmation agreement, you may cancel it at any time before the court issues your discharge order or within (60) days after the reaffirmation agreement is filed with the court, whichever is later. If you reaffirm a debt and fail to make payments required in the reaffirmation agreement, the creditor can take action against you to recover any property that was given as security for the loan and you may remain personally liable for any remaining debt.

Other Bankruptcy Options

You have a choice in deciding what chapter of the Bankruptcy Code will best suit your needs. Even if you have already filed for relief under Chapter 7, you may be eligible to convert your case to a different chapter.

Chapter 7 is the liquidation chapter of the Bankruptcy Code. Under chapter 7, a trustee is appointed to collect and sell, if economically feasible, all property you own that is not exempt from these actions.

Chapter 11 is the reorganization chapter most commonly used by businesses, but it is also available to individuals. Creditors vote on whether to accept or reject a plan, which also must be approved by the court. While the debtor normally remains in control of the assets, the court can order the appointment of a trustee to take possession and control of the business.

Chapter 12 offers bankruptcy relief to those who qualify as family farmers. Family farmers must propose a plan to repay their creditors over a three-to-five year period and it must be approved by the court. Plan payments are made through a chapter 12 trustee, who also monitors the debtors' family farming operations during the pendency of the plan.

Finally, chapter 13 generally permits individuals to keep their property by repaying creditors out of their future income. Each chapter 13 debtor writes a plan which must be approved by the bankruptcy court. The debtor must pay the Chapter 13 trustee the amount set forth in their plan. Debtors receive a discharge after they complete their chapter 13 repayment plan. Chapter 13 is only available to individuals with regular income whose debts do not exceed \$1,162,050 (\$290,525 in unsecured debts and \$871,550 in secured debts).

AGAIN, PLEASE SPEAK TO YOUR ATTORNEY IF YOU NEED FURTHER EXPLANATION, INCLUDING HOW THE BANKRUPTCY LAWS RELATE TO YOUR SPECIFIC CASE.



FILING REQUIREMENTS FOR COMPLETE BANKRUPTCY PETITION(S)**Chapter 7**

- (1) Petition;
- (2) If appropriate, Chapter 7 Individual Debtor's Statement of Intention;
- (3) Statement of Financial Affairs;
- (4) Statement of Social Security Number (**Petitions Filed After 12/1/03**);
- (5) Summary of Schedules;
- (6) Schedules A - J;
- (7) Declaration Concerning Debtor's Schedules;
- (8) Attorney's or Bankruptcy Petition Preparer Disclosure; and
- (9) Creditor Matrix (2)

Chapters 12 and 13

- (1) Petition;
- (2) Statement of Financial Affairs;
- (3) Statement of Social Security Number (**Petitions Filed After 12/1/03**);
- (4) Summary of Schedules;
- (5) Schedules A - J;
- (6) Declaration Concerning Debtor's Schedules;
- (7) Attorney's or Bankruptcy Petition Preparer Disclosure
- (8) Creditor Matrix (2)
- (9) Plan (Chapter 12 - within 90 days of filing of petition, Chapter 13 - within 15 days of filing of petition)

Number of Copies of Petitions, Statements, Schedules, and Lists

In a case filed under chapter 7, 9, 12, or 13, an original and three sets of copies of the petition, lists, schedules and statements must be filed with the clerk. In a case filed under chapter 11, an original and four sets of copies must be filed with the clerk.

Places of Filing

U.S. Bankruptcy Clerk's Office
APAC Building (8th Floor)
425 Second Street SE, Suite 800
Cedar Rapids, IA

U.S. Bankruptcy Clerk's Office
U.S. Federal Courthouse (1st Floor)
320 Sixth Street
Sioux City, IA

Mailing Address

United States Bankruptcy Clerk's Office
Northern District of Iowa
P.O. Box 74890
Cedar Rapids, IA 52407

United States Bankruptcy Clerk's Office
Northern District of Iowa
P.O. Box 3857
Sioux City, IA 51102-3857

BANKRUPTCY COURT FEE SCHEDULE
(28 U.S.C. Section 1930 - Effective 11/01/2003)

Chapter 7 Petition	\$209.00
Chapter 12 Petition, when legislatively enacted	\$239.00
Chapter 13 Petition	\$194.00
Chapter 11 Petition	\$839.00
Motion for Relief for Automatic Stay	\$150.00
Motion to Withdraw Reference of a Case	\$150.00
Motion to Compel Abandonment of Property of the Estate	\$150.00
Amendment to a Debtors Schedules, List of Creditors, or Matrix	\$ 26.00
Motion to Convert to Chapter 7	\$ 15.00
Filing a Notice of Conversion pursuant to 1208(a) or 1307 (a)	\$ 15.00
Converting a Chapter 7/Chapter 13 to a Chapter 11 (Debtor request)	\$645.00
Reproducing any record or paper (per page charge)	\$.50
Reproducing a recording of proceedings	\$ 26.00
Certification of any document or paper (per item charge)	\$ 9.00
Exemplification of any document (per item charge)	\$ 18.00
Records search conducted by the Clerk or any Deputy Clerk	\$ 26.00
Retrieval of a record from the Federal Records Center (per record charge)	\$ 45.00
Filing a complaint	\$150.00
Notice of Appeal	\$255.00
For a Cross Appeal	\$255.00
To Reopen a case (the fee will be collected upon the filing of the motion): No fee required if the reopening is for actions related to the debtor's discharge	
Any other Chapter 7 or 13 Reopening	\$155.00
Any other Chapter 11 Reopening	\$800.00
Deconsolidating a Joint Petition:	
Chapter 7 or 13	\$155.00
Chapter 11	\$800.00
Chapter 12	\$200.00
For filing or indexing any paper not in a case for which a filing fee has been paid, including registering a judgment from another district	\$ 39.00

The Bankruptcy Fee Schedule and Miscellaneous Fee Schedule is available through the court's internet web site: <http://www.ianb.uscourts.gov/general/generalframe.html>

Format for Creditor Matrix

The matrix is a list of the names and addresses of creditors and parties in interest in a bankruptcy case. This information is used for noticing and also for claims information when applicable. The debtor and attorney for debtor are responsible for complete information on the matrix.

Your matrix should conform to the following requirements:

1. The matrix should be submitted on 3.5" disk and paper format with the petition.
2. The matrix must be in an ASCII file format with an appropriate text extension such as .txt before it can be successfully uploaded into the CM/ECF system. Keep punctuation and symbols to a minimum.
3. Do not include the debtor, joint debtor, attorney for the debtor, or the Office of the U.S. Trustee.
4. Each name/address block must contain a minimum of three (3) lines and a maximum of five (5) lines of text. Do not place a blank line within a name/address block.
5. Each name/address block must be separated by at least one (1) blank line.
6. Each line of text may contain no more than 40 characters including blank spaces.
7. Account numbers or "attention" lines should be placed on the second line of the name/address.
8. City, state, and zip code must be on the last line. If a nine-digit zip code is used, it must be typed with a hyphen separating the two groups.
9. All states must be two-letter abbreviations.
10. **ALWAYS INCLUDE THE FOLLOWING PARTIES AS INDICATED** (current matrix list is maintained by the Clerk's Office):

Iowa Department of Revenue and Finance

Internal Revenue Service (Chapter 11 only)

Iowa Department of Human Services (If overpayment of public benefits such as Aid to Dependent Children, Food Stamps, Title XIX Medicaid, or child support assigned to the Department exists)

Regarding notice to be given when an agency of the United States is a creditor:

Any agency, department, or instrumentality of the United States that is a creditor of a debtor shall be included in the lists, schedules, statements, and/or matrices of creditors using the most current address available. If the debtor-creditor relationship is with a federal agency whose office is located outside the state of Iowa, the out-of-state address should be used in addition to the addresses contained in the list maintained by the Clerk's Office.

Federal agencies/departments/instrumentalities which may require notice:

Department of Veterans Affairs
US Department of Education
Small Business Administration
Farm Service Agency
USDA/Rural Development
US Department of Agriculture
US Department of Labor
Internal Revenue Service
US Department of Housing & Urban Development
US Department of Health & Human Services
US Social Security Administration

In addition to the specific agencies listed above, the matrices of creditors shall also include the appropriate address of the United States Attorney for the Northern District of Iowa. The listing of the United States Attorney must include a designation of the agency involved, using the initials of that agency. For example, "United States Attorney (FSA)."

Things to Avoid in your Matrix

Although the court is using sophisticated equipment and software to insure accuracy in creditor list reading, certain problems still occur. By following these guidelines, the court will avoid delays or additional effort in mailing notices.

Avoid the following problem areas:

- Extra marks on the list - such as letterhead, dates, debtor names, coffee stains, handwritten marks.
- Non-standard paper such as onion skin, half-sized paper, or colored paper. Use 8 1/2 x 11 standard paper.
- Poor quality type caused by submitting a photocopy or carbon.
- Stray marks should be avoided. Do not type lines, debtor names, page numbers, or anything else on the front of the creditor list. Any identifying marks you choose to add can be typed on the back of the list.
- Upper case only (all capital letters) should be avoided. Type in upper and lower case as you would on a letter.

FREQUENTLY ASKED QUESTIONS**Filing for Bankruptcy Protection**

- Where do I get the forms to file bankruptcy?

The Northern District of Iowa has opted to provide a “Forms” link on the court’s web site to allow downloading and printing of the most commonly used forms. Forms may be located at: <http://www.ianb.uscourts.gov/formstable.html> Blank forms may also be purchased at any office supply store that sells legal forms.

- Can employees of the Clerk’s Office assist me in completing the forms?

No. 28 U.S.C. Section 955 prohibits the staff of the Clerk's office from giving legal advice or assisting with the preparation of the forms.

- Can a “Petition Preparer” or paralegal prepare my forms for filing?

Yes. If you do decide to file bankruptcy without the benefit of counsel or use a document preparation service, be aware that a "bankruptcy petition preparer," as defined in 11 U.S.C. section 110, is subject to strict regulations which include requirements that the preparer sign any papers prepared on behalf of the debtor, include identification of the individuals who prepared the papers and furnish the debtor with a copy of the documents prepared.

- How many copies of the petition am I required to file?

In a case filed under chapter 7, 9, 12, or 13, an original and three sets of copies of the petition, lists, schedules and statements must be filed with the clerk. In a case filed under chapter 11, an original and four sets of copies must be filed with the clerk. If you are mailing your petition to the court for filing and would like a copy returned to you, you must supply a self addressed stamped envelope.

- Why do I have to pay a fee to file for bankruptcy?

Federal statute, 28 U.S.C. Section 1930, requires a fee to file a bankruptcy petition.

- Can I pay my filing fee by check? What about with a credit card?

No to both. The only acceptable forms of payment for filing fees, or any fees payable to the court are money orders, cashier checks or cash.

- What if I can’t afford to pay the full filing fee at this time? Can I pay in installments?

Rule 1006 does allow for the payment of the filing fee in installments. An application to pay filing fee in installments can be filed with the bankruptcy petition and approved by the Court. The total number of payments or installments shall not exceed four, and the final installment must be paid within 120 days of the filing of the petition.

- How much do I have to pay for each installment?

Local Bankruptcy Rule 1006-1 explains that the minimum payment per installment is one-fourth (1/4) the total fee required with the filing of a petition, or within 31 days thereafter.

- If my case gets dismissed, or I change my mind about filing, will my filing fee be refunded?

No. By statute, filing fees cannot be refunded.

- When am I under bankruptcy protection?

You are under bankruptcy protection when and after your petition is file stamped by a member of the Clerk's Office staff or other official of the court. A case number is assigned at this time.

- I have heard that the Northern District of Iowa accepts electronically filed documents. Can I file my documents electronically?

No. Due to security and original signature issues, the court's electronic filing system is only available to members of the bankruptcy community who file with the court on a regular basis. You are encouraged, however, to provide your creditor matrix on computer disk at the time of filing to decrease filing times and possibility of information entry error.

- How long does it take for my creditors to be notified that I have filed bankruptcy?

The creditors listed on your matrix are notified within 7-10 days of your filing.

- How do I add a creditor to my petition that has already been filed?

You may file an amendment to your schedules per Local Bankruptcy Rule 1009-1. This may or may not require a filing fee, depending upon the schedule being amended. The amendment should be in pleading form and clearly state what is being added or changed.

- Who has access to my bankruptcy file?

All of our files are public record.

- How does bankruptcy affect my credit rating?

Credit "rating" is a matter governed by state law, not federal bankruptcy law. Effects of filing may differ from creditor to creditor. See the information on the Fair Credit Report Act.

Discharges

- How long does it take to get a discharge?

Every case is different. It depends on the case, the creditors involved and the trustee. The case cannot be discharged until after the deadline for filing objections to the discharge has passed.

- Will all of my creditors be notified of my discharge?

All creditors who were listed in your schedules or added by amendment to your schedules will be notified.

- How will I know when my debts have been discharged?

Once all prerequisites have been met, and a discharge of debts is appropriate, the Court will enter a discharge order and will serve this order upon you and all creditors listed within the case.

- When I receive my discharge, is my case complete?

No, your case is not complete until you receive the order closing the case.

The Fair Credit Reporting Act

The Fair Credit Reporting Act, 6 U.S.C. section 605, is the law that controls credit reporting agencies. The law states that credit reporting agencies may not report a bankruptcy case on a person's credit report after ten years from the date the bankruptcy case is filed. Other bad credit information is removed after seven years. The larger credit reporting agencies belong to an organization called the Associated Credit Bureaus. The policy of the Associated Credit Bureau is to remove Chapter 11 and Chapter 13 cases from the credit report after seven years to encourage debtors to file under these chapters.

You may want to contact the Federal Trade Commission, Bureau of Consumer Protection, Education Division, Washington, D.C. 20580, or telephone them at (202) 326-2222 and request the publications "How to Dispute Credit Reporting Errors" and "Fair Credit Reporting".