

## GENERAL QUESTIONS ABOUT FILING A BANKRUPTCY CASE

### **Do I need an attorney to file a bankruptcy?**

While it is possible to file a bankruptcy case “pro se” (without an attorney), it can be difficult. Many bankruptcy issues are very complicated. For example, debtors may keep certain types of property ( “exempt property”), but not other types of property. Some kinds of debt aren’t discharged (or wiped out) in bankruptcy. Also, you might find some of the bankruptcy paperwork that you need to fill out very confusing. Finally, if you make a mistake in your bankruptcy paperwork, or don’t file all of the required papers, your case could be dismissed. If this happens, you may not be able to file another bankruptcy case or, if you do, you might not be protected by the automatic stay.

An attorney who knows the bankruptcy laws can help you prepare your bankruptcy paperwork and give you legal advice about your rights in bankruptcy.

The staff at the Bankruptcy Court Clerk’s Office can’t give you legal advice or tell you how to prepare your bankruptcy papers. If you have questions about filing for bankruptcy or preparing the required paperwork, please talk to an attorney who knows about bankruptcy.

You may also use the Alaska Bar Association as a resource to find a bankruptcy attorney. Please contact the Alaska Bar Association at (907) 272-0352 or (800) 770-9999 for more information.

### **Is there a fee to file a bankruptcy case?**

Yes. The fee is due when the petition is filed. Payment must be in the form of a bank certified or cashier’s check, a money order, or cash. The Clerk’s Office will not accept personal checks or credit cards from debtors.

The amount of the fee depends on which chapter of bankruptcy (chapter 7, 11, 12 or 13) you are filing. You can find a list of the current filing fees under the “General Court Info” link on our court web site, [www.akb.uscourts.gov](http://www.akb.uscourts.gov), or you can contact the Clerk’s Office to get fee information.

The filing fee must be paid at the time the bankruptcy petition is filed. There are two exceptions to this requirement, but only for individuals who are filing bankruptcy (not for corporations or partnerships). These exceptions are discussed below.

## **Can the filing fee be paid in installments? What happens if I miss an installment payment?**

An individual debtor filing a bankruptcy petition under any chapter can ask to pay the filing fee in installments. The individual must fill out Official Form 3A, "Application to Pay Filing Fee in Installments," and file this form at the same time the bankruptcy petition is filed. You can get this form from the Clerk's Office or on the Internet by going to our court web site (<http://www.akb.uscourts.gov>). From the "Forms" link, select "National Forms List." Official Form 103A will be listed there.

It is recommended that you pay at least \$50.00 at the time you file your bankruptcy petition with the court. Most debtors propose paying the remainder of their filing fee in three equal monthly installments. If you need help planning a payment schedule, staff in the Clerk's Office can help you.

Applications to pay filing fees in installments are reviewed by the clerk of court or the bankruptcy judge. An order approving the payment of the filing fee in installments will be issued and mailed to the debtor. The order will tell the debtor when his installment payments are due, and how much each payment will be.

If the debtor has trouble making the payments on time, he must let the bankruptcy court know. A debtor can file a written request for an extension of time to pay the fee. If the filing fee is not paid in full, the bankruptcy case will be dismissed.

## **Can the fee for filing bankruptcy be waived?**

The filing fee can be waived only in chapter 7 cases, and only for individual debtors. The individual debtor's income must fall below certain poverty guidelines in order to qualify. The debtor must also show why he can't pay the filing fee in installments.

To obtain a fee waiver, a debtor must fill out Official Form 3B, "Application for Waiver of the Chapter 7 Filing Fee," and file this form at the same time the bankruptcy petition is filed. You can get this form from the Clerk's Office or on the Internet by going to the "Forms" link on our court web site (<http://www.akb.uscourts.gov>). From the "Forms and Manuals" link, select "National Forms List." Official Form 103B will be listed there.

Requests for waiver of the filing fee are reviewed by the bankruptcy judge. If the debtor qualifies for a fee waiver, the judge will issue an order that says the filing fee doesn't have to be paid. If the judge finds that the debtor doesn't qualify for a fee waiver, he will issue an order requiring the debtor to pay the filing fee in installments. The debtor will be mailed a copy of the judge's order. If the debtor doesn't qualify for a fee waiver, and doesn't pay the filing fee in installments, the bankruptcy case will be dismissed.

## What is the Bankruptcy Code?

The Bankruptcy Code is the set of laws that cover bankruptcy relief. The Bankruptcy Code was originally enacted in 1978. Many important changes to the Bankruptcy Code were made on October 17, 2005, under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (or BAPCPA). The Bankruptcy Code can be found at Title 11 of the United States Code. You can find this set of laws at law libraries or on the Internet. There is a link to the Bankruptcy Code on our court web site: <http://www.akb.uscourts.gov>. ([Bankruptcy Code, Rules, & opinions](#)).

Under the Bankruptcy Code there are two choices for bankruptcy relief. One choice is liquidation, which is done under chapter 7. The other choice in bankruptcy is reorganization, which is done under chapters 11, 12 and 13. If you are thinking of filing for bankruptcy, you should discuss these choices with a qualified bankruptcy attorney.

## What can I do if I don't understand some of the terms used in bankruptcy?

There is a glossary of bankruptcy terms under the "Filing on Your Own?" link on our court web site: <http://www.akb.uscourts.gov>. You can look up words used in bankruptcy that are not familiar to you there.

## What is the difference between chapters 7, 11, 12 & 13?

**Chapter 7:** This is often called the "liquidation chapter." Chapter 7 is usually filed by debtors who don't have enough money to propose at least a partial repayment of their debts under the reorganization chapters of the Bankruptcy Code (chapters 11, 12 and 13). Most individuals who file bankruptcy file under Chapter 7. In a chapter 7 case, a trustee is appointed to review the debtor's property and financial condition. Depending on the type and value of the debtor's property, the trustee may decide to "liquidate" (or sell) the debtor's non-exempt property for cash. In most individual cases, there is no non-exempt property to sell. The trustee will then pay the money out to creditors in accordance with the Bankruptcy Code. The trustee must notify the debtor and creditors, and get court approval, before he sells property or makes payments to creditors.

**Chapter 11:** This is what most people know as the "reorganization chapter." It is usually used by corporation, rarely by individuals. Chapter 11 allows debtors to reorganize their financial affairs and become productive again. A chapter 11 debtor presents a plan to creditors. The plan must explain how the debtor will repay his creditors and handle his finances in the future. Creditors are given a chance to vote on the plan. If the plan is approved by the bankruptcy court, the debtor must follow through on his plan to repay his creditors.

**Chapter 12:** Only family farmers or family fishermen with regular income may file chapter 12 petitions. Chapter 12 is another reorganization chapter. The debtor

must present a plan to his creditors that explains how he will repay them and how he will handle his business in the future. Creditors are given a chance to file objections to the plan. The bankruptcy court reviews the plan to see if it meets the requirements of the Bankruptcy Code. If the court approves the plan, the debtor will be under the court's protection while he makes the payments to the trustee which are required under the plan. The trustee will then pay the money out to the debtor's creditors as specified in the plan.

**Chapter 13:** Chapter 13 is a reorganization chapter that is often used by individuals with regular income. There are limits on how much debt and how much property an individual in chapter 13 can have. (The limits, currently approximately \$307,000 in unsecured debt and \$922,000 in secured debt, are set out in section 109(e) of the Bankruptcy Code.) If the individual's property and debt go over these limits, he must file chapter 11 instead of chapter 13 if he wants to reorganize. A chapter 13 debtor must file a plan in which he agrees to make monthly payments to a trustee over a 3 to 5 year period. Creditors have a chance to review the plan and can file objections to the plan. The bankruptcy court then reviews the plan to see if it meets the requirements of the Bankruptcy Code. If the court approves the plan, the debtor will be under the court's protection while he makes the payments to the trustee which are required under the plan. The trustee will then pay the money out to the debtor's creditors as specified in the plan.

### **I've heard I can only file a Chapter 13. Is this true?**

Important changes to the Bankruptcy Code were made effective October 17, 2005, under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (or BAPCPA). One of the biggest changes is that individual debtors must now fill out a "means test" form when they file bankruptcy. There is a separate means test form for individuals who plan to file chapter 7 (Form 22A), chapter 11 (Form 22B) and chapter 13 (Form 22C).

The means test forms require individual debtors to list their monthly income and, if their income is more than an amount defined as "applicable median family income," the debtors must also list their expenses. Individual debtors must get information from the Office of the United States Trustee in order to fill out the means test form. The information can be found on the Internet at the United States Trustee's web site: [www.usdoj.gov/ust/](http://www.usdoj.gov/ust/). Debtors without Internet access can get the information they need to fill out the means test form from the Bankruptcy Court Clerk's Office or the Office of the United States Trustee.

The means test is used to evaluate whether a debtor should file a chapter 7 or chapter 13 bankruptcy. If a debtor's income goes over a certain amount, then it will be presumed that the debtor should file chapter 13 and propose a plan to repay at least a portion of his debts. The numbers on the means test are also used to determine whether a debtor in chapter 13 should propose a repayment plan lasting

3 years or 5 years. If a debtor files chapter 7, the numbers on the means test are reviewed by the United States Trustee to see if the debtor might instead be able to

repay some of his debts in chapter 13.

The staff in the Clerk's Office is not allowed to give legal advice and can't give you information on how to fill out the means test form. If you have questions about this, you should contact an experienced bankruptcy attorney.

### **I've heard I can't file bankruptcy unless I get credit counseling first. Is this true?**

Yes. Individual debtors must get credit counseling from an approved agency within the 180 day period before a bankruptcy is filed. An individual can get the required counseling in person, over the telephone, or on the Internet. Individual A list of approved credit counseling agencies is available from the Bankruptcy Court Clerk's Office, or the list can be found at the United States Trustee's web site: [www.usdoj.gov/ust/](http://www.usdoj.gov/ust/).

After a debtor has taken the required credit counseling, the credit counseling agency will give the debtor a certificate of completion. The debtor must file this certificate with the bankruptcy court to prove that he or she has had credit counseling.

### **Can I be excused from the credit counseling requirement?**

There are some exceptions to the credit counseling requirement. They are very limited. An individual must file a written request for a waiver of the credit counseling requirement at the same time that the bankruptcy petition is filed. *Individuals who want to request a waiver should be aware that if their request is denied, their bankruptcy petition may be dismissed.*

An individual debtor must fall into one of the following categories to get a temporary or permanent waiver of the credit counseling requirement.

- 1) If a debtor has "exigent circumstances" *and* can't get credit counseling within 5 days of asking for the counseling, he might be able to get a temporary waiver of the credit counseling requirement. To get a temporary waiver, the debtor must file a written certification with his bankruptcy petition that explains his exigent circumstances and tells the court how he tried to get counseling. "Exigent circumstances" are urgent, immediate or emergency type situations that a debtor didn't expect to happen. Events which have been scheduled for a long time, such as foreclosure sales, are usually not considered exigent circumstances. Exigent circumstances can excuse the debtor from having to get credit counseling before filing bankruptcy, but the debtor will still need to get the counseling. If the bankruptcy court finds that the debtor has shown exigent circumstances, then the debtor will need to get credit counseling no later than 30 days after the bankruptcy petition is filed. [Section 109(h)(3) of the Bankruptcy Code]
- 2) Individual debtors who are incapacitated, disabled, or "on active military duty in a military combat zone," can apply for a full waiver of the credit counseling requirement.

The Bankruptcy Code defines incapacity to mean that a debtor “is impaired by reason of mental illness or mental deficiency so that he is incapable of making rational decisions with respect to his financial responsibilities.”

Disability is defined to mean that a debtor “is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing” to get the credit counseling.

An individual on active military duty must be serving in a military combat zone to qualify for a waiver of credit counseling.

An individual who can't get credit counseling because of incapacity, disability, or active military duty in a combat zone must file a written request for a waiver of the credit counseling requirement at the same time that the bankruptcy petition is filed. The request must give details to show the court that the individual is disabled, incapacitated, or on military duty in a combat zone. If the court approves the request, the individual will not need to get credit counseling. [Section 109(h)(4) of the Bankruptcy Code]

### **What is the automatic stay?**

The filing of a bankruptcy petition automatically stays, or stops, most actions against the debtor or the debtor's property. It is called “automatic” because the stay begins automatically at the time the bankruptcy case is filed with the Clerk's Office. Once the stay is in place, creditors are prohibited from taking certain actions against a debtor. Examples of actions which are stayed, or stopped, include phone calls from collection agencies, the filing or continued prosecution of a collection action against a debtor, and foreclosures of real property. [Section 362(a) of the Bankruptcy Code]

### **Will the automatic stay stop creditors from calling my home and work?**

It will help. After you file your petition with the court, the Clerk's Office will send a written notice of your bankruptcy filing to all of the creditors you listed on your creditor mailing matrix. This notice goes out within one to two days of filing, but it may take up to a week or longer for creditors to receive the notice because of mail time. If a creditor calls after you have filed your petition, tell them you have filed for bankruptcy and that they will receive notice of this in the mail. If the creditor was not one listed on your mailing matrix, you should update your matrix with the Clerk's Office so that this creditor will get future notices about your bankruptcy.

It is important to make sure you list all your creditors on your matrix, because if a creditor doesn't get notice of your bankruptcy, his debt might not be discharged in your bankruptcy.

Once creditors get notice of your bankruptcy filing, most collection actions against you are stayed and most creditors can't try to collect a debt from you unless they follow certain actions, such as getting relief from stay. There are some exceptions

to this. Some kinds of actions aren't stayed (see below). If a creditor continues to try to collect a debt from you after being notified of your bankruptcy, you should contact an attorney immediately for advice.

### **Will the automatic stay stop all actions against a debtor or the debtor's property?**

No. Some kinds of actions that are not stayed include criminal actions, paternity proceedings, proceedings regarding custody and visitation, and domestic violence matters. Proceedings to suspend or revoke a driver's license or a professional license aren't stayed, either. These are some of the most common kinds of proceedings that are not stayed when a bankruptcy petition is filed. A full list of the kinds of proceedings that are not stayed can be found in the Bankruptcy Code. [Section 362(b)]

Also, the filing of a bankruptcy petition may not stop an eviction proceeding. If a debtor is leasing or renting residential property (such as a home, apartment, or condominium) and his landlord has gotten a judgment for eviction, the eviction may not be stayed if he files bankruptcy. The filing of a bankruptcy petition also may not stay an eviction from commercial property. A debtor facing eviction proceedings should speak to a bankruptcy attorney to see whether the eviction would be stayed if bankruptcy were filed. [Section 362(b)(10), (22), (23) of the Bankruptcy Code]

Finally, for individual debtors in chapter 7 cases, the automatic stay will only temporarily stop some kinds of repossession actions. If the debtor has a car loan or a loan for the purchase of some other kind of personal property (such as furniture, jewelry, electronics or household goods), he cannot keep the property unless he redeems it or reaffirms the debt with the creditor. If he doesn't do this within 45 days of the first meeting of creditors, the automatic stay on the personal property will be released. [Section 521(a)(6) of the Bankruptcy Code]

### **How to I file for bankruptcy?**

You file for bankruptcy by completing a bankruptcy petition and preparing a matrix and filing these documents in the Bankruptcy Court Clerk's Office. You must also pay the filing fee at the time you file your bankruptcy petition, unless you are an individual debtor who has requested to pay the fee in installments or who has, in a chapter 7 case only, asked for a fee waiver (see above for information on installment payments and fee waivers).

There are other documents that a debtor must file, either with the bankruptcy petition or within 15 days of filing the petition. These documents include schedules, a statement of financial affairs and, for chapter 7 debtors, a statement of intention. Debtors filing under chapters 11, 12 and 13 will need to file plans. Individual debtors must file a certificate of credit counseling, and submit a statement of social security number. Many of these documents are Official Forms which can be obtained from the Clerk's Office (see below).

Only individual debtors can file bankruptcy without the assistance of an attorney. Debtors who are corporations, partnerships, or limited liability companies must be represented by an attorney in their bankruptcy. [Alaska Local Bankruptcy Rule 1004-1(b)]

**Where can I get the required bankruptcy forms?**

If hiring an attorney is not possible, you can buy the bankruptcy forms from most legal stationery stores and some bookstores. If you have access to the Internet, you can get the forms for free from the Bankruptcy Court’s web site: <http://www.akb.uscourts.gov>. You can also buy the forms from the Bankruptcy Court Clerk’s Office for a minimal charge (currently \$20.00). If you come to the Clerk’s Office to buy the bankruptcy forms, please bring cash or a certified check or a money order; personal checks are not accepted.

**Where do I file bankruptcy?**

You can file for bankruptcy in person or by mail. To file in person, bring your filled out bankruptcy paperwork to one of the offices of the Bankruptcy Court. The Bankruptcy Court has divisional offices in Anchorage, Fairbanks, Juneau and Ketchikan. You may file your bankruptcy petition in person at any of these locations, *but you should check that location’s business hours before trying to file your paperwork.* The locations are:

Clerk’s Office, Bankruptcy Court 605 West 4th Avenue, Room 138 Anchorage, AK 99501	Clerk’s Office, District Court Federal Building & U.S. Courthouse 101 12th Ave., Room 332, Box 1 Fairbanks, AK 99701
Clerk’s Office, District Court 709 West 9th Street, Room 979 Box 020349 Juneau, AK 99802	
Toll Free Number to Check Hours of Bankruptcy Court Divisional Offices:  1(800) 859-8059	

You can also file your bankruptcy by mailing your completed paperwork to the main office:

Clerk’s Office, Bankruptcy Court  
605 West 4th Avenue, Room 138  
Anchorage, Alaska 99501-2253



No matter how you file (in person or by mail) you must remember to pay the filing fee at the same time. Payment must be by money order, or bank certified or cashier's check. No personal checks are accepted. [To pay the fee in installments, or to request a waiver of the filing fee, see above.]

### **What are the filing fees?**

The current filing fees can be found in Form B200 on the court's website. Go to [www.akb.uscourts.gov](http://www.akb.uscourts.gov)

### **What if I have an emergency filing after hours?**

If you need to file an emergency petition or other urgent document with the Bankruptcy Court after regular business hours, a pre-approved appointment must be made. Contact the Clerk at (907) 271-2655, during regular business hours, to make the appointment. In the event of an unforeseeable after hours emergency, contact the Clerk on his cell phone, (907) 382-5956.

Attorneys who are participants in the CM/ECF system can file bankruptcy petitions or any other documents electronically via the Internet at any time. The CM/ECF system is available 24 hours a day, with the exception of scheduled maintenance times.

### **How many copies of my bankruptcy paperwork do I need to file?**

When you file your original bankruptcy paperwork, you must also provide complete copies to the Clerk. The number of copies needed depends on which chapter of bankruptcy you are filing:

Chapter 7, 12 and 13:           Original documents plus 1 complete copy

Chapter 11:                    Original documents plus 2 complete copies

You must also prepare and file a matrix, or list of creditors. Unless your bankruptcy is being filed by an attorney who is in the CM/ECF System, your matrix must be typed on letter sized (8 1/2 x 11 inch) white paper. It must contain the names and full addresses of all your creditors, typed single spaced in a single column down the page. Please see Local Rule 1007-2, available on our web site, for more specifics regarding the matrix.

If you would like to get a conformed (file stamped) copy of any bankruptcy documents you file with the Clerk's Office, you must make one additional copy of these documents for yourself. The Clerk will file stamp the extra copy and return it to you. If you are mailing your documents to the Clerk's Office, you must provide a self addressed, stamped envelope with enough postage to cover return postage for these documents.

### **Do I need to send a copy of the petition to anyone else?**

No. The Clerk's Office will mail a written notice about your bankruptcy case to all the creditors you have listed on your matrix. For this reason, it is very important that you put complete addresses, including city, state and zip code, for each of your creditors on your matrix.

If you want one of your creditors to get notice of your bankruptcy faster than the mailed notice sent by the Clerk's Office, it is your responsibility to do this. The Clerk's Office can print a notice that confirms you have filed bankruptcy, and you can give this notice to the creditor.

### **What do you mean by 'Matrix'?**

A matrix is a list of the names and current addresses of all the creditors and other parties that should have notice of a bankruptcy. It is the debtor's job to prepare the matrix. A matrix must be prepared before the debtor files bankruptcy. It must be filed with the bankruptcy petition.

If you are a debtor, it is your responsibility to make sure you have listed good addresses for all of your creditors on the matrix. You can usually find address information for your creditors on any recent bills you have received from them. Once you have filed bankruptcy, if any mail sent by the Clerk's Office about your bankruptcy comes back to the court as "undeliverable," you will be notified about this. You will be expected to find a good address for the creditor and notify the Clerk's Office, in writing, of the good address. Additionally, if you learn of a different address for one of your creditors after you file your bankruptcy, you must notify the Clerk's Office in writing of the new address.

It is possible for a matrix to change after a bankruptcy case is filed. First, if a case trustee is appointed, he is added to the matrix, along with the United States Trustee. Sometimes creditors and other interested parties will add themselves to the matrix. The matrix may also change when a creditor files a proof of claim or a notice of change of address in a bankruptcy case. Attorneys who appear in a bankruptcy case on behalf of a creditor get added to the matrix as well.

### **What is a Section 341 Meeting or Meeting of Creditors?**

Such a meeting is conducted by the case trustee or the U.S. Trustee. The debtor must appear at this meeting and testify, under oath, about his financial condition, assets and debts. The debtor will be asked about the information he has placed on his bankruptcy paperwork. Creditors may also attend this meeting and question the debtor, but most of the questioning is done by the trustee assigned to the case or the U.S. Trustee. If the debtor doesn't come to the meeting, his bankruptcy case can be dismissed.

For debtors located in the Anchorage area, the creditor's meeting is held 20 to 40 days after the petition is filed. For debtors living outside Anchorage, the meeting is held 20 to 60 days after the petition is filed. The debtor will receive notice by mail of the date and time of the creditor's meeting. The debtor will also get a list of the papers that must be brought to the creditor's meeting for review by the trustee (such as proof of identification, bank statements, tax returns, etc.).

## **What if I can't come to my creditor's meeting on the day it is scheduled?**

If you can't make it to the creditor's meeting as scheduled, you must contact the U.S. Trustee's Office as soon as possible at (206) 553-2000 and ask that the meeting be continued. If you can't travel to the town where your meeting is to be held (for instance, traveling from Kodiak to Anchorage), you can send a written request to the U.S. Trustee's Office asking to appear by telephone at your creditor's meeting (address is listed in the section below). The U.S. Trustee's Office will determine if your circumstances warrant an appearance by telephone. If you are serving in the Military and will be out of state, it is often possible to give a power of attorney to your spouse so that he or she can attend the meeting for you, but you should check with the U.S. Trustee's Office to make sure this is ok.

The Bankruptcy Clerk's Office does not set the creditor's meetings. The Clerk's Office has no authority to change the time of a creditor's meeting or allow a telephonic appearance at a meeting. All questions about this meeting must first be directed to the U.S. Trustee's Office.

## **What is the function of the U.S. Trustee and where are they located?**

The Office of the United States Trustee is part of the Department of Justice. This office is responsible for monitoring the administration of bankruptcy cases and detecting bankruptcy fraud. It is also responsible for appointing panel trustees to administer chapter 7, 12 and 13 cases. Additionally, the U. S. Trustee provides support and oversight to debtors who have filed chapter 11. The individuals selected by the U.S. Trustee to serve as interim or standing trustees in bankruptcy cases are appointed on a rotating basis and come from a list that changes over time.

If you would like to get more information about the trustee program or individual trustees, you should contact the Office of the U.S. Trustee at:

Office of the U. S. Trustee  
700 Stewart St, Suite 5103  
Seattle, WA 98101  
Telephone: (206) 553-2000

Information about The U.S. Trustee program's website is [www.usdoj.gov/ust/](http://www.usdoj.gov/ust/).

## **How long does it take to go through a bankruptcy or get my discharge?**

As a general rule in chapter 7 is that a debtor's discharge will be entered about 120 to 150 days after the case was filed. The entry of a discharge may take longer if a debtor's entitlement to the discharge is contested. In chapter 11 cases filed by individuals, and in chapter 12 and 13 cases, a discharge is not entered until the plan has been completed. Plans under these chapters generally last from 36 to 60 months (3 to 5 years).

## **How long does a bankruptcy stay on my credit report?**

A bankruptcy generally affects a debtor's credit report for 7 to 10 years. However, this depends entirely on the individual credit reporting agency. There are three credit

reporting companies: Equifax, Experian and TransUnion. Each of these companies may have different information about your credit history, because they may each receive information from different creditors. The Bankruptcy Court has no influence on the type of information that shows up on your credit report. If you are interested in pulling a credit report for yourself, you should visit the website:

[www.annualcreditreport.com](http://www.annualcreditreport.com).

Under federal law, you have the right to receive a free copy of your credit report once every 12 months. You can request your credit report directly from AnnualCreditReport.com (at the Internet address shown above) or send a written request to Annual Credit Report Request Service at:

Annual Credit Report Request Service  
PO Box 105281  
Atlanta, GA  
30348-5281  
Telephone: 1-877-322-8228

If you are requesting a copy of your annual credit report by mail, you must still download a request form from AnnualCreditReport.com (at the Internet address shown above).

You can also contact the credit reporting agencies directly at:

Equifax - [www.equifax.com](http://www.equifax.com) / 1-800-685-1111 Experian -  
[www.experian.com](http://www.experian.com) / 1-888-397-3742 TransUnion -  
[www.transunion.com](http://www.transunion.com) / 1-800-916-8800

### **I'm filing for bankruptcy but have also discovered a lien against my property. What should I do?**

A bankruptcy discharge will wipe out most debts, but it won't affect liens which may exist against your property. Certain types of liens, such as judgment liens, may be set aside by the Bankruptcy Court under certain circumstances. In order to set aside a lien, you must file a "Motion to Avoid Lien" following proper court procedures, and serve notice of that motion on the creditor whose lien you are trying to set aside. Advice of counsel is recommended. [Section 522(f) of the Bankruptcy Code]

## **CREDITOR QUESTIONS**

### **A company or individual has filed for bankruptcy and owes us money. What do we do?**

If you have been listed as a creditor in a bankruptcy case, you will receive a written notice in the mail from the Clerk's Office advising you that the case has been filed. This notice will also tell you whether or not you should file a claim in the bankruptcy case at that time, and the deadline for filing the claim if one is to

be filed. The notice will also give you important deadlines for filing complaints to object to a debtor's discharge or dischargeability of certain debts.

In most chapter 7 cases, the first notice you receive from the Clerk's Office will tell you not to file a claim. If the case trustee later finds that the chapter 7 case has assets, he will have the Clerk's Office send out a supplemental notice that sets a deadline for creditors to file claims, along with a proof of claim form. If you receive a notice that sets a deadline for filing claims, you should file a proof of claim with the Clerk's Office. The claim must be *received* by the Clerk's Office no later than the deadline indicated on the notice. If you are mailing your claim to the Clerk's Office, make sure you mail it well before the deadline so the Clerk's Office will receive it by the due date.

In chapter 11, 12 and 13 cases, the first notice you receive from the Clerk's Office will contain a deadline for filing claims and will include a proof of claim form. If you want to share in the debtor's plan, you must file a proof of claim with the Clerk's Office by the deadline indicated on the notice. Your claim must be *received* by the Clerk's Office no later than this deadline. If you are mailing your claim to the Clerk's Office, make sure you mail it well before the deadline so the Clerk's Office will receive it by the due date.

If someone who owes you money has filed bankruptcy, but you have not received a written notice about the bankruptcy, you can send the Clerk's Office a written "Request to be Added to the Mailing Matrix." Include your full mailing address in this request so that the Clerk's Office can add you to the matrix and send you future notices about the debtor's bankruptcy.

### **How do I file a claim?**

If you have been listed as a creditor in a bankruptcy case, you will receive a written notice from the Clerk's Office in the mail after the bankruptcy has been filed. The notice will tell you if there is a deadline for filing claims. If a deadline for filing claims is contained in the notice, you will also receive a proof of claim form.

If the original notice you receive from the Clerk's Office does not contain a deadline for filing proofs of claim (which is usually the case in Chapter 7 cases), you may receive a "Notice to File a Proof of Claim," along with a claim form, once the trustee determines that there are assets in the case. This notice will also have a deadline for filing claims on it.

If you are informed of a claim deadline, but do not receive a claim form to fill out, you can get one from the Clerk's Office or from the Court web site.  
[www.akb.uscourts.gov](http://www.akb.uscourts.gov)

The claim form should be filled out completely and should include a full and complete copy of any documentation that supports your claim, as an attachment. **DO NOT ATTACH ORIGINAL BACKUP DOCUMENTATION** to support your

claim; it will not be returned to you. The original claim must have your signature on it (not a stamp or copy), preferably in blue ink. You must submit the original of your completed claim form, with all attachments, to the Clerk's Office by the deadline for filing claims. This means the Clerk's Office must *receive* the claim form by that date. If you are mailing your claim form to the Clerk's Office, make sure to allow enough time for mailing so that the form is received by the due date. If you mail your claim form the date it is due, it will be considered a late claim. You must also send a complete copy of your claim to the case trustee and the debtor. Their addresses will be included in the notice you receive from the Clerk's Office.

If you would like to have a conformed copy of your claim returned to you, please bring an extra copy with you to the Clerk's Office or, if you are mailing your claim, include an extra copy with a self addressed, stamped envelope with enough postage to cover return mailing costs. The Clerk will file stamp the extra copy and return it to you.

Requests for information regarding when a claim will be paid should be directed to the trustee assigned to the case. The trustee's name and telephone number can be found on the notice of filing bankruptcy that you receive from the Clerk's Office. You can also get this information by calling VCIS (Voice Case Information System), at (907) 271-2658, or toll free within Alaska at 1-888-878-3110.

### **How do I file for relief from the automatic stay?**

Once a debtor files bankruptcy, creditors generally can't continue proceedings against him. [Section 362(a) of the Bankruptcy Code] There are certain exceptions, however. In order for a creditor to continue a proceeding that has been stayed by the filing of bankruptcy, the creditor usually must obtain an order granting relief from stay from the Bankruptcy Court.

To get an order granting relief from stay, the creditor must file a Motion for Relief from Stay, along with a Notice of Motion for Relief From Stay. The original motion and notice must be filed with the Bankruptcy Court, along with a filing fee of \$176.00. This fee is not required for a motion for relief from the co-debtor stay, or on a stipulation for approval of an agreement for relief from stay. It also is not required if the creditor is seeking to collect child support, and the moving party has also filed Official Form B-281. Copies of the motion and notice must be served on the debtor, the trustee and other creditors and parties in interest. [Alaska Local Bankruptcy Rule 4001-1(b), (c)]

The legal authority for obtaining relief from stay can be found in section 362 of the Bankruptcy Code. In addition, Alaska Local Bankruptcy Rule 4001-1 describes the procedure for filing and noticing a motion for relief from stay. Alaska Local Bankruptcy Forms 1, 2 and 3 are forms for a motion for relief from stay and notice of motion for relief from stay. Parties are required to use these local forms to the extent possible.

After a motion for relief from stay has been properly noticed and the 15-day deadline for objections has expired:

- a) If no objections to the motion have been filed, the moving party must file a Certificate of No Objection (Alaska Local Bankruptcy Form 4) with the court, and submit a proposed order granting the motion.
- b) If an objection is filed, a hearing must be held before the order granting relief will be entered. A calendar request (Alaska Local Bankruptcy Form 7) should be submitted to the court to obtain a hearing date.

Refer to Alaska Local Bankruptcy Rule 4001-1 for further details regarding the procedure for obtaining relief from stay.

All forms needed to file a motion for relief from stay may be downloaded from the court's web site, at our "Forms and Manuals" link.

## **OTHER BANKRUPTCY QUESTIONS (Debtor & Creditor)**

### **What is an Ex Parte matter and how do I file for it?**

"Ex parte" simply means without notice. An ex parte matter is a motion or request for relief where the requestor wants the court to grant relief on very short notice, or without giving notice to all interested parties. Ex parte relief is limited to special circumstances. The requesting party must show the court that there is a good reason for needing a hearing quickly or without notice to all interested parties, before ex parte relief can be granted.

### **Where do I get a copy of the Federal Rules of Bankruptcy Procedure?**

The Federal Rules of Bankruptcy Procedure are available for review in any Clerk's Office location and at law libraries. <http://www.akb.uscourts.gov>. (click "Other Links," "Bankruptcy Sites,"

### **Where do I get a copy of the Local Rules?**

The Alaska Local Bankruptcy Rules are available on the Internet through our court's web site, "[Local Rules](#)" link. The Alaska Local Bankruptcy Rules can also be reviewed in the Clerk's Office.

### **How do I get a hearing date?**

Alaska Local Bankruptcy Form 7 (LBF 7) must be filled out and submitted to the Clerk's Office. A copy of this form is available in the Clerk's Office or may be downloaded from the "Forms" link on our court's web site.

### **Can I attend a Bankruptcy Court hearing by telephone?**

Attendance of hearings by telephone is a *privilege* which is generally permitted unless another party objects. You must make arrangements in advance to do this. The court clerk will contact the party when the hearing begins. Individuals wishing to appear at a hearing by telephone must notify the In-Court Clerk's Department at 271-2655, ext 2640, at least 3 days before the hearing to request telephonic attendance. When asking for a telephonic appearance, the requesting party must give the clerk the following information: the bankruptcy case number, the day and time of the hearing, and a contact phone number where the party can be reached.

If you have asked to attend a Bankruptcy Court hearing by telephone, you must be available for that hearing at the phone number you provided to the clerk, at the time the hearing is scheduled. The court will only try to reach you for the hearing *once*. The court will not tolerate being put "on hold," and court proceedings will not be delayed if there is a problem reaching you by telephone at the time the hearing is scheduled.

### **What if I don't agree with an order that is entered by the court?**

You may do one of two things: file a Motion for Reconsideration, or file a Notice of Appeal. Both documents must be filed within 10 calendar days of the date that the order or judgment was entered. [The date of entry of an order or judgment is the date that it is placed on the docket for the case. In this court, the date of entry of an order or judgment will show up in a rectangular box on the first page of the document, as the "Filed on" date.]

In a Motion for Reconsideration, the party filing the motion is asking the court that entered the order or judgment to reconsider its decision. The party can ask the court to reverse or amend its decision. No fee is required to file a motion for reconsideration. The court may decide to hold another hearing on the matter, or it may deny the motion and leave its ruling unchanged. [Fed. R. Bankr. P. 9023; AK LBR 9023-1]

In a Notice of Appeal, the party filing the appeal (called "the appellant"), wants an appellate court to reverse or change the order or judgment entered by the bankruptcy court. The Notice of Appeal must be filed in the Bankruptcy Court Clerk's Office within 10 calendar days of the date that the order or judgment was first entered. A \$298 filing fee must be paid when the Notice of Appeal is filed. Appeals are automatically referred to the Bankruptcy Appellate Panel, or BAP, unless the party filing the appeal also files a written election to have the appeal heard by the U.S. District Court. The appellant's election to U.S. District Court must be a separate document, filed at the same time the appeal is filed. If the party filing the appeal does not elect to have the appeal heard by the U.S. District Court, other parties to the appeal (the appellees) may do so, but there are time limitations on when this can be done. Appeals can be lengthy and complicated procedures. Seeking the advice of an attorney is recommended.



## **How do I find out which trustee has been assigned to a bankruptcy case?**

The name of the trustee assigned to a chapter 7, 12 or 13 case will show up on the face page of the docket for that case. You may obtain the trustee's name by visiting the Clerk's Office in person, or by telephoning the U.S. Trustee's office at 206-553-2000.

You can also look up case information over the Internet through the Public Access to Court Electronic Records (PACER) system. If you do not have access to PACER, the trustee's name is also reported by VCIS (Voice Case Information System). The phone number for VCIS is (907) 271-2658, or toll free within Alaska at 1-888-878-3110.

## **Who do I notify about a possible bankruptcy fraud?**

The Office of the United States Trustee. The United States Trustee requires that your information about the fraud be submitted in a signed letter, bearing your return address and telephone number to:

Office of the U.S. Trustee  
700 Stewart St, Suite 5103  
Seattle, WA 98101

Your letter should contain the following information:

1. The bankruptcy case name and file number, together with copies of any pertinent court filings.
2. A chronological summary of the matter.
3. A narrative of what occurred.
4. Names, addresses and telephone numbers (to the extent available) of the subjects and witnesses known to you.

Copies of any documentation you have to support your complaint of bankruptcy fraud should be included with your letter.

Upon receipt, your letter will be reviewed promptly. If the information it provides establishes a reasonable belief that a criminal violation has occurred, the matter will be referred to the United States Attorney. The United States Attorney will cause the matter to be investigated further by the appropriate law enforcement agency and then will decide if there is sufficient evidence to prosecute the bankruptcy fraud.

## **Is bankruptcy information public information? Can anyone look at it?**

The information contained in documents filed in bankruptcy cases are a matter of public record, and can be reviewed by members of the general public. The

documents can be reviewed by members of the public in the Clerk's Office during regular business hours or, for attorneys and creditors who have access to PACER, over the Internet 24 hours a day.

Access to pleadings and papers filed in bankruptcy cases is not restricted unless there is some good basis for "sealing" information that is contained in them. To have a document filed "Under Seal" or "In Camera," a motion must be filed explaining the need to protect the information in that document from public view. If you are a debtor, you should be aware that the filing of bankruptcy may affect your credit rating. Several reporting agencies report bankruptcy information and statistics to the public, and credit reporting agencies also regularly collect bankruptcy information.

### **How do I obtain information about a case?**

Telephone Access: Basic information, such as the debtor or debtor's attorney's name, case number, or the name of the trustee is available on the telephone by calling the VCIS (Voice Case Information System) at (907) 271-2658 or 1-888-878-3110. This information is provided free of charge and is available 24 hours a day from any touch tone phone.

Computer Access: Electronic case summaries, docket information, and viewable copies of all pleadings filed since 2000, may be retrieved via the Internet through the Public Access to Court Electronic Records system (PACER). This system requires that you be a registered participant, and there is a fee for access (\$0.10 per page, with a page being approximately 50 lines of text). This charge is limited to the first thirty pages of a document, but is charged each time you open a new document. For PACER registration information, please call (800) 676-6856.

Also, Motznik Information Services in Anchorage has some bankruptcy case filing data available. For access and cost information, please contact Motznik directly at (907) 344-6254.

In Person: Complete case files for all bankruptcy cases filed in this district since January, 2000, are accessible for viewing at no cost, on computer terminals in the Clerk's Office. Documents filed in older bankruptcy cases may also be accessible for viewing in the Clerk's Office. Older files which are closed are archived at the Federal Records Center in Seattle, Washington. To determine if a case has been archived, contact the Clerk's Office. Archived records may be obtained directly from the Federal Records Center, but you will need to obtain certain archiving information from the Clerk's Office prior to requesting information from the National Records and Archive Administration (NARA), which oversees the Federal Records Center.

Copies of documents: Copies of court records and documents can be obtained in the Clerk's Office, or through the PACER system.

## **What if the case I'm interested in has been archived?**

If a case has been archived, there may be some information that is still available through the Clerk's Office. You should first check to see what information is available there. If the Clerk's Office doesn't have the records you need, the Clerk will provide you with archive information, such as accession record retrieval numbers. [PACER users can get this information through the ECF system, under the query search field, case summary information screen.] With this access information, you can either retrieve the full case file for review, or order copies of specific records, from the National Archive & Records Administration (NARA) in Seattle. The Clerk's Office can help you process your request, or you may contact NARA directly to request the information you need. There are fees for retrieving files or ordering records from NARA. Because these fees change periodically, you should request fee information from the Clerk's Office or NARA at the time you place an order for archived records. If you want to have the entire case file returned to Anchorage for your review, you can submit your request through the Clerk's Office. NARA will send the file to the Clerk's Office once it receives your request. It usually takes up to four weeks for the file to arrive, but NARA can process records requests on an expedited basis for a fee. The Clerk's Office will hold the retrieved case file for 30 days unless a longer period of time is requested. You can only review the retrieved case file in the Clerk's Office. Archived files can't be removed from the Clerk's Office for copying or viewing at another location.

## **How do I get certified copies of documents?**

You may come to the Clerk's Office and request certified copies. Alternatively, if you know the documents you are looking for, you can mail a written request for certified documents to the Clerk's Office. Your request must specifically identify the documents you want certified. Be sure to include the case name, case number, filing date and the title of the specific documents which you wish to have certified. In addition, please include your name, address and daytime contact number, so the Clerk can reach you if he has any questions about your request.

The Clerk charges for certifying documents. There is a per-page copying charge and a fee for certifying the document. Also, if you order the certified copy by mail, the Clerk is required to charge a fee for searching the records of the Bankruptcy Court. This search fee is charged *per document* ordered. These fees are set by statute [28 U.S.C. § 1930] and change periodically. You should contact the Clerk's Office to find out the current amount for each of these fees. Payment of these fees must be in cash, or by money order or bank certified or cashier's check. If you are ordering certified copies by mail and you are unsure of what the total charge for certifying the document will be, you can leave the dollar amount of your check blank, and on the dollar line insert the words "Not to exceed Fifty Dollars."

## **How do I get admitted to practice before the Bankruptcy Court?**

Attorneys admitted to practice before the United States District Court for the District of Alaska are also admitted to practice before the Alaska Bankruptcy Court. [AK LBR 2090-1(a)] Contact the United States District Court at (907) 677-6100 for its admission policies.

Attorneys admitted to practice in other jurisdictions of the United States may be permitted upon ex parte application to appear in a particular bankruptcy case in this district. See Alaska Local Bankruptcy Rule 2090-1(b).