

Top 16 Myths About Bankruptcy¹

Myth 1: Under the NEW bankruptcy law, there's no more bankruptcy and no more help (or it's too late to file).

Not True. In fact...nothing could be further from the truth. Sure you heard it in the press, but it's just not true. The news media overcooked the whole story. The truth is that you can do almost everything under the NEW law that you could do under the OLD law. In some ways, the new law actually increased the benefits of filing bankruptcy.

As it turns out...and you need to hear this...many clients are getting a better break under the NEW law, than they would have gotten under the OLD law.

Myth 2: Everyone will know you have filed for bankruptcy.

Unless you're a prominent person or a major corporation and the filing is picked up by the media, the chances are very good that the only people who will know about a filing are your creditors and the people who you tell. While it's true that your bankruptcy is a matter of public record, the number of filings is so massive, that unless someone is specifically trying to track down information on you, there is almost no likelihood that anyone will even know you filed. However...telling someone that someone else filed bankruptcy is good gossip...just like telling a someone you heard so-and-so is getting a divorce. So...if you don't want everyone you know to know you filed bankruptcy...you need to keep the information to yourself. As for newspapers...my experience is that most papers don't include information about who filed bankruptcy... and even if they did...think about it...who would be interested enough to read that stuff.



Myth 3: You will lose everything you have.

Nothing could be further from the truth. The fact is...most people who file bankruptcy don't lose anything.

First...while laws vary from State to State, every State has exemptions that protect certain kinds of property. Using North Carolina as an example...there are exemptions to protect such things as your house, your car, your truck, household goods and furnishings, IRAs, retirement plans, the cash value in life insurance, wages, and personal injury claims. There is even a "wildcard" exemption of \$3,500 per person that can be applied wherever you want it. In those rarer situations where you have more property than can be protected by available exemptions...there is Chapter 13. In Chapter 13...you can even keep this property by paying a higher Chapter 13 plan payment.

Second....as mentioned above (Myth 2)...filing bankruptcy does not generally wipe out liens. Therefore...if you want to keep a car, truck, home or business equipment that serves as collateral for a loan...you need to keep paying on the debt. If you make these payments and have exemptions to cover any value above what is owed...you can rest assured you will be able to keep these items.

¹ <http://www.billsbills.com/myths.html>

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Myth 4: You will never be able to own anything again.

A surprising number of people believe this...but this is completely false. In the future...you can buy, own and possess whatever you can afford.

Myth 5: You will never get credit again.

Quite the contrary. Filing bankruptcy gets rid of debt... and getting rid of debt puts you in a position to handle more credit...and this makes you look more attractive to would-be lenders. In my experience...unfortunately...it won't be long before you're getting credit card offers again. I say "unfortunately" because I don't want you to get right back in debt again. At first...the would-be lenders will want more money down and will want to charge you higher interest rates. However...over time...if you are careful, and keep your job, and start saving money, and pay your bills, and do things that will put good marks on your credit report...the quality of your credit will get better and better. Generally...in my experience... if a client has not re-established good credit in 2 to 4 years... sufficient to buy a car or even a house...it's not because they filed bankruptcy. It generally means that something else has happened after the bankruptcy to hurt their credit.



Myth 6: Filing bankruptcy will hurt your credit for 10 years.

Not true. You are getting 2 completely different concepts confused with each other. You are getting the fact that bankruptcy is reported on your credit report for 10 years mixed up with the effect that reporting will have on your credit. Just because something is reported on your credit report does NOT necessarily mean it will have a negative effect on your credit standing.

First...let's get one thing out in the open. By the time you need to make an appointment to see a bankruptcy attorney... your credit is already messed up or maxed out...or both. This being the case...you have no credit for bankruptcy to hurt.

Furthermore...as I mentioned above...in my experience...if you have not re-established good credit in 2 to 4 years after you file bankruptcy...most likely...it has nothing to do with the fact that you...once upon a time...filed bankruptcy...and it certainly has absolutely nothing to do with the fact that your credit history still shows an old bankruptcy.

Myth 7: If you're married...both you and your spouse have to file for bankruptcy.

Not true. In many cases...where both husband and wife have a lot of debt...it makes sense and saves money for them to both file...but it is never a requirement under the law. We have many cases where only one spouse has filed. The good news is that generally...if it makes sense for both spouses to file together...they can both file for the price of one filing.

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Myth 8: It's really hard to file for bankruptcy.

No...it's not...at least not in the hands of an experienced bankruptcy attorney. In the hands of an experienced bankruptcy attorney...filing bankruptcy is easy. The decision to file may be hard...but once the decision is made...the filing part is easy.

Myth 9: Only deadbeats file for bankruptcy.

Not true. Most of the people who file bankruptcy are good, honest, hard-working people...just like you and me...who file as a last resort...after months or years struggling to pay the bills that left over from some life-changing experience, such as a divorce, the loss of a job, a failed business venture, a serious illness, or some family emergency...or because they honestly and mistakenly fell into debt at a young age before they knew better...before they knew anything about budgeting or how to manage money.

Myth 10: Filing bankruptcy means you're a bad person.

Not true. There's a reason over 1,000,000 Americans file bankruptcy each year...and it's not because they're bad people. Lots of good, honest, hard-working people fall on hard times. Let's face it...life can be brutal...and sometimes...the money's just not there. The bankruptcy law was created with this in mind...to make sure you have a way...if need be...to get free from the burden of debt...so that you...and your family...can have a second chance at a "fresh start".



Myth 11: Filing for bankruptcy will hurt your credit.

That's not true. Think about it. By the time you come to a bankruptcy attorney...your credit is already either messed up or maxed out. And if it's already messed up or maxed out...how can bankruptcy hurt it?

The big surprise for my clients is when I tell them that filing bankruptcy can actually help them re-build their credit. Bankruptcy gets rid of debt...and getting rid of debt puts you in a better position to handle new credit...if only someone will give it to you. Therefore...bankruptcy is the first step in the process of re-building your credit.

Myth 12: Even if you file for bankruptcy, creditors will still harass you and your family.

This is NOT true. In fact, nothing could be further from the truth. The minute you file bankruptcy, the Bankruptcy Court issues an order telling all of your creditors to leave you alone. No more phone calls. No more collection letters. No more lawsuits. No repossessions. No foreclosures. Nothing. This order has a name. It is called the "automatic stay"; and it is issued pursuant to 11 United States Code, Section 362. The automatic stay prohibits you from any and all collections actions. After you file bankruptcy, the creditor is not even allowed to talk to you. In addition, the creditor must stop any collection attempts already started. The automatic stay is very powerful, and puts the full weight of the United States Courts to work for you, to make sure your creditors leave you alone. If a creditor violates the automatic stay, you have the right to bring the creditor before the Court for Contempt of Court, and to be compensated accordingly. Believe me, Bankruptcy Court Judges do not take kindly to creditors who ignore the automatic stay, and these Judges have been known to punish creditors severely. Very simply, once you file for bankruptcy, creditors must leave you alone or suffer the consequences.

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Myth 13: If you file for bankruptcy, it may cause more family troubles and may even lead to divorce.

This is NOT true. Usually, it works just the opposite. Filing bankruptcy is not the problem. The problem is not being able to pay your bills. All good, honest, hard-working people feel a strong need to pay their bills, and not being able to do so, causes them to feel tremendous stress. Unless you do something to relieve this stress, the stress can quickly build to the breaking point...the marriage breaking point. Bankruptcy is designed to get you out from under the burden of debt, to protect your property and to lower your stress level. If your experience is like that of other couples, you will find that filing bankruptcy... and lowering the stress level... can be a crucial first step in bringing the love and caring back into your relationship...which...in turn...gives your marriage a fighting chance.

Myth 14: You can't get rid of back taxes through bankruptcy.

We get rid of old "income" taxes for our clients all the time. By "old"...I mean income taxes more than 3 years old. Under the law...there are 3 or 4 qualifications that have to be met... but once these are met...these taxes are gone. Please note: Filing bankruptcy does NOT get rid of withholding or sales taxes...no matter how old they are.

Myth 15: You can only file once for bankruptcy protection.

The truth is...you can only file for a Chapter 7 bankruptcy once every 6 years...but after 6 years...if need be...you can file again. As for filing a case under Chapter 13 of the Bankruptcy Code... there is no such restriction. Hopefully...however...you will never need to file more than one bankruptcy.

Myth 16: You can pick and choose which debts and property to list in your bankruptcy.

I'm sorry...but you can't. Doing so would be against the law. Under the law...when you file bankruptcy...you have to list all your property and all your debts. Most people want to leave out a debt because it is their intent to keep paying on it. The good news...on this score...is that you can achieve the same goal, even though you have to list the debt. If you want to keep paying on a debt...after bankruptcy...you can. After bankruptcy...you can go back and pay anybody you want. In fact...after you file bankruptcy...there are some debts you have to keep paying on. For instance...if you have a car, truck or house loan...even though you list the debt in your bankruptcy...if you want to keep the car, truck or house...you have to keep paying on the debt. More importantly...you need to know this. As long as you stay current on the loan...and keep the property properly insured...you are protected under the law ... and you get to keep the property...because...under the law...the creditor is stuck with you and can't do anything about it.