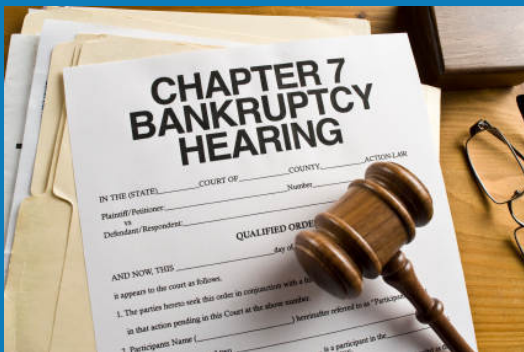


Debt that is secured by a lien (such as a car loan or home loan), if discharged in bankruptcy, will result in that property being surrendered to the creditor. However, the debtor and creditor can enter into an agreement during the bankruptcy case to continue to pay on the secured loan for the property in order for the individual to be able to keep it; this is called a reaffirmation agreement.



## Chapters 7 & 13

A Chapter 7 bankruptcy is a liquidating bankruptcy where all the non-exempt assets of the filer are liquidated by a Trustee and paid to creditors. If a creditor has no non-exempt assets, the Trustee will file a "no asset" report.

A Chapter 13 bankruptcy is a reorganization, which allows individuals with regular earnings to propose a plan to repay their creditors over time. The Chapter 13 Plan can allow an individual to make up late payments on assets like their home to keep the home from being foreclosed. While a Chapter 13 case can be filed pro se (*i.e.*, without a lawyer) it is recommended that individuals interested in Chapter 13 bankruptcy consult with an attorney as the process can be complex.

## What To Expect During Bankruptcy

You must take an approved credit counseling course within 180 days before filing your bankruptcy case. You can find a list of approved credit counseling courses here: [justice.gov/ust/list-credit-counseling-agencies-approved-pursuant-11-usc-111](https://justice.gov/ust/list-credit-counseling-agencies-approved-pursuant-11-usc-111).

In order to be eligible for a Chapter 7 bankruptcy, your current monthly income cannot exceed Idaho's median income. But, if your income is too high, you may still be able to qualify via the "Means Test." You can find more information on Idaho's median incomes and the "Means Test" here: [upsolve.org/id/means-test/](https://upsolve.org/id/means-test/).

When completing your bankruptcy forms, you must list all assets and liabilities. Failure to do so can result in dismissal of your case or criminal prosecution.

Once you file your case, an automatic stay goes into effect that will prevent creditors from taking any actions to collect on your debts. Within 30 days after filing, there will be a meeting of creditors. The debtor must attend this meeting to answer questions, under oath, about assets, transfers, and debts. At the conclusion of a successful Chapter 7 bankruptcy, a discharge injunction is entered by the judge.

*Forms and resources for filing bankruptcy in Idaho pro se are available here:*

[https://www.id.uscourts.gov/bankruptcy/pro\\_se/Resources.cfm](https://www.id.uscourts.gov/bankruptcy/pro_se/Resources.cfm)

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## Bankruptcy in Idaho

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## Bankruptcy Generally

The Bankruptcy Code is a set of federal laws that give individuals and businesses the ability to obtain relief from debt in the form of a discharge. The fundamental goal of bankruptcy is to give debtors a financial “fresh start.” Bankruptcy provides debtors this “fresh start” as long as the debtors are willing to be open and honest and follow the rules of the Bankruptcy Code.

Is filing bankruptcy taking advantage of the system? No. Frequently, people who file are in financial trouble because of things beyond their control, such as illness, injury, or other unexpected events. Bankruptcy is a tool available to handle the debt arising from these situations, and seeking the relief provided in federal law should not be viewed—by society or those seeking the relief—as a character flaw.



## Exemptions

Depending on your circumstances, you may have alternatives to bankruptcy in dealing with your debts. These may include negotiating lower payments and interest rates with your creditors or working with a non-profit credit counseling agency. Or, all of your income and property might be protected by exemptions, making you “judgment proof.”

Even without filing a bankruptcy case, Idaho law provides individuals with certain “exemptions.” This means State law provides people the ability to completely or partially protect certain assets and property from their creditors. To learn more about exemptions that may protect your income or property from creditors without needing to file for bankruptcy, see Idaho Legal Aid’s brochure, *Execution & Garnishment of Judgments*, [idaholegalaid.org/node/1564/garnishments-and-exemptions-judgments](http://idaholegalaid.org/node/1564/garnishments-and-exemptions-judgments).



## Debts Not Discharged

Even if you file a Chapter 7 bankruptcy case, some debts will typically not be discharged in the case: (1) most taxes; (2) most student loans (without other action taken by you in the case); (3) child/spousal support and property settlement obligations; (4) most fines, penalties, and criminal restitution; (5) any debts you fail to list in your schedules; and (6) death or personal injury caused by operating a motor vehicle while intoxicated. Additionally, debts may not be discharged if a creditor proves any of the following occurred: (1) fraud or theft; (2) false written statements regarding assets; or (3) willful and malicious injuries to person or property. If the court finds that assets were transferred to defraud creditors or that you attempted to conceal assets, the Bankruptcy Court can deny discharge of all the debts in your case.