

## **BANKRUPTCY**

Bankruptcy can be a helpful financial tool to alleviate or eliminate consumer debts such as: credit card debt, medical bills, pay day loans, and some taxes. If your income is insufficient to pay all of your personal living expenses and your creditors, it may be a good option. It can provide a clean slate for your credit and help you get back to a healthy place financially. However, for a service member there are a few extra factors that must be considered, as filing for bankruptcy could have a detrimental impact on your career, and you should always ensure that filing won't cause you to lose valuable assets. A bankruptcy attorney will best be able to provide guidance based on your particular situation, but here are some basics.

### **Two Types of Consumer Bankruptcy**

Chapter 7: This is what most people think of when they hear the term "bankruptcy." This is a liquidation of all debts and assets, with all non-exempt assets being turned over to the Trustee. State law will determine which of your assets are exempt from the bankruptcy, meaning you can keep them without penalty. Once you file a Chapter 7, an automatic stay goes into effect, preventing your creditors from attempting collections. Vehicle debts can be "reaffirmed," allowing you to keep necessary vehicles. Qualifying debts are discharged after a few months from the time of filing. You must meet certain criteria in order to qualify for a Chapter 7; primarily, your household must make below the average medium income for your family size in the state. If you own real estate and either have a lot of equity in the property or are behind on your mortgage payments, a Chapter 7 bankruptcy is not a good option for you. Filing for a Chapter 13 may be a better option to protect your home and equity. A Chapter 7 typically only takes a few months, and your attorney will likely require all filing and attorney's fees up front.

Chapter 13: This is a bankruptcy allows you to pay back, through monthly payments, a pre-determined portion of your debts based on your current income and assets over a three to five year period. This is often referred to as a consolidation or reorganization bankruptcy. Once you file a Chapter 13, an automatic stay goes into effect, preventing your creditors from attempting collections. Necessary car payments can be easily incorporated into your payment plans, allowing you to pay back your vehicle at a reduced 5% interest rate over the course of the bankruptcy. This bankruptcy is a great option for those who own real estate, because it allows the debtor to continue making a mortgage payment outside of the bankruptcy. Additionally, a Chapter 13 bankruptcy allows you to catch up on mortgage payments that may be behind and/or protect equity you may have in the home. All debts are discharged after the three to five year period, once all payments have been made to the satisfaction of the Trustee. Filing fees and attorney's fees are typically factored into your monthly payments over time, so less will be due up front from you to get the case filed.

### **Additional Considerations for Service Members**

Filing for bankruptcy does not automatically trigger a revocation of your security clearance nor does a past bankruptcy preclude you from obtaining a security clearance. However, the adjudicators maintain full discretion to revoke or deny a security clearance, as financial issues are very important and can signal vulnerability to coercion. The significance of the bankruptcy may depend upon the cause for the filing and the results once the bankruptcy ends. Adjudicators

will check credit reports to see how the individual's credit and financial responsibility improved post-bankruptcy, and this may be taken into consideration. If you have successfully completed a bankruptcy, your debts have all been discharged so you may be less susceptible to coercion through bribery in such a way that your clearance will not be impacted. This is one argument the [Legal Assistance Office](#) could help you make if your clearance is in jeopardy, though the success of this argument cannot be guaranteed.

### Other Options to Consider

Debt consolidation services are available. However, be cautious if paying for any debt consolidation services. Scams are common in this industry.

**Negotiating with Creditors:** Contact your creditors and see if they are willing to work something out with you, such as a revised payment plan or a surrender of the items leading to the debt. People are often surprised how willing creditors are to work with them. An amended payment plan or refinancing agreement with a debtor in many cases is in a creditor's best interest, because it typically allows them to recover more for the debt than if you file bankruptcy. This is a significant benefit to you as well, because it may allow you to avoid having to file bankruptcy.

### How the Fort Bliss Legal Assistance Office Can Assist You

The [Legal Assistance Office](#) does not file bankruptcies. However, our attorneys can refer you to a local bankruptcy attorney who can discuss your case and options with you. Bankruptcy attorneys typically offer a free consultation, and he or she will be able to more fully advise you on whether bankruptcy is a beneficial option given your specific financial situation.

If you face revocation of your security clearance for financial considerations, a Legal Assistance attorney can assist you in drafting a letter of response once you receive a notice of "Intent to Deny Security Clearance." A Legal Assistance attorney can draft a letter of response if your situation meets one or more of the following criteria: the behavior supporting the denial was (1) not recent; (2) an isolated event; (3) due to circumstances beyond your control; (4) you received or are receiving counseling for the problem, and there are clear indications that the problem is being resolved or is under control; (5) your sudden affluence resulted from a legal source [not applicable if you have filed bankruptcy]; and/or (6) you have initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.