

# UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF TEXAS



## Requirements for Commencing a New Bankruptcy Case

### TABLE OF CONTENTS

<b>I. BEFORE YOU FILE .....</b>	<b>2</b>
<b>NOTICE REQUIRED BY 11 U.S.C. § 342(B) FOR INDIVIDUALS FILING FOR BANKRUPTCY (FORM 2010) .....</b>	<b>2</b>
<b>II. FILING A BANKRUPTCY CASE FOR INDIVIDUALS (CHAPTERS 7, 11, 12, AND 13) .....</b>	<b>7</b>
<b>III. FILING A BANKRUPTCY CASE FOR NON-INDIVIDUALS (CHAPTERS 7 AND 11) .....</b>	<b>10</b>
<b>IV. VOLUNTARY CHAPTER 15 CASE .....</b>	<b>12</b>
<b>V. INVOLUNTARY CHAPTER 7 OR 11 CASE – INDIVIDUAL/NON-INDIVIDUAL.....</b>	<b>12</b>
<b>VI. ADVERSARY CASE .....</b>	<b>13</b>

## I. Before You File

### Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy (Form 2010)

**This notice is for you if:**

- You are an individual filing for bankruptcy, and
- Your debts are primarily consumer debts. *Consumer debts* are defined in 11 U.S.C. § 101(8) as “incurred by an individual primarily for a personal, family, or household purpose.”

***The types of bankruptcy that are available to individuals***

Individuals who meet the qualifications may file under one of four different chapters of the Bankruptcy Code:

- Chapter 7 — Liquidation
- Chapter 11 — Reorganization
- Chapter 12 — Voluntary repayment plan for family farmers or fishermen
- Chapter 13 — Voluntary repayment plan for individuals with regular income

**You should have an attorney review your decision to file for bankruptcy and the choice of chapter.**

Chapter 7:	Liquidation
	\$245 filing fee
	\$75 administrative fee
+	\$15 trustee surcharge
	\$335 total fee

Chapter 7 is for individuals who have financial difficulty preventing them from paying their debts and who are willing to allow their non-exempt property to be used to pay their creditors. The primary purpose of filing under chapter 7 is to have your debts discharged. The bankruptcy discharge relieves you after bankruptcy from having to pay many of your pre-bankruptcy debts. Exceptions exist for particular debts, and liens on property may still be enforced after discharge. For example, a creditor may have the right to foreclose a home mortgage or repossess an automobile.

However, if the court finds that you have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge.

You should know that even if you file chapter 7 and you receive a discharge, some debts are not discharged under the law. Therefore, you may still be responsible to pay:

- most taxes;
- most student loans;
- domestic support and property settlement obligations;

- most fines, penalties, forfeitures, and criminal restitution obligations; and
- certain debts that are not listed in your bankruptcy papers.

You may also be required to pay debts arising from:

- fraud or theft;
- fraud or defalcation while acting in breach of fiduciary capacity;
- intentional injuries that you inflicted; and
- death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs.

If your debts are primarily consumer debts, the court can dismiss your chapter 7 case if it finds that you have enough income to repay creditors a certain amount. You must file *Chapter 7 Statement of Your Current Monthly Income* (Official Form 122A-1) if you are an individual filing for bankruptcy under chapter 7. This form will determine your current monthly income and compare whether your income is more than the median income that applies in your state.

If your income is not above the median for your state, you will not have to complete the other chapter 7 form, the *Chapter 7 Means Test Calculation* (Official Form 122A-2).

If your income is above the median for your state, you must file a second form—the *Chapter 7 Means Test Calculation* (Official Form 122A-2). The calculations on the form—sometimes called the *Means Test*—deduct from your income living expenses and payments on certain debts to determine any amount available to pay unsecured creditors. If your income is

more than the median income for your state of residence and family size, depending on the results of the *Means Test*, the U.S. trustee, bankruptcy administrator, or creditors can file a motion to dismiss your case under § 707(b) of the Bankruptcy Code. If a motion is filed, the court will decide if your case should be dismissed. To avoid dismissal, you may choose to proceed under another chapter of the Bankruptcy Code.

If you are an individual filing for chapter 7 bankruptcy, the trustee may sell your property to pay your debts, subject to your right to exempt the property or a portion of the proceeds from the sale of the property. The property, and the proceeds from property that your bankruptcy trustee sells or liquidates that you are entitled to, is called *exempt property*. Exemptions may enable you to keep your home, a car, clothing, and household items or to receive some of the proceeds if the property is sold.

Exemptions are not automatic. To exempt property, you must list it on *Schedule C: The Property You Claim as Exempt* (Official Form 106C). If you do not list the property, the trustee may sell it and pay all of the proceeds to your creditors.

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### Chapter 11: Reorganization

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	\$1,167	filing fee
+	\$550	administrative fee
	\$1,717	total fee

Chapter 11 is often used for reorganizing a business, but is also available to individuals. The provisions of chapter 11 are too complicated to summarize briefly.

**Read These Important Warnings**

Because bankruptcy can have serious long-term financial and legal consequences, including loss of your property, you should hire an attorney and carefully consider all of your options before you file. Only an attorney can give you legal advice about what can happen as a result of filing for bankruptcy and what your options are. If you do file for bankruptcy, an attorney can help you fill out the forms properly and protect you, your family, your home, and your possessions.

Although the law allows you to represent yourself in bankruptcy court, you should understand that many people find it difficult to represent themselves successfully. The rules are technical, and a mistake or inaction may harm you. If you file without an attorney, you are still responsible for knowing and following all of the legal requirements.

You should not file for bankruptcy if you are not eligible to file or if you do not intend to file the necessary documents.

Bankruptcy fraud is a serious crime; you could be fined and imprisoned if you commit fraud in your bankruptcy case. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**Chapter 12: Repayment plan for family farmers or fishermen**


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	\$200	filing fee
+	\$75	administrative fee
	\$275	total fee

Similar to chapter 13, chapter 12 permits family farmers and fishermen to repay their debts over a period of time using future earnings and to discharge some debts that are not paid.

**Chapter 13: Repayment plan for individuals with regular income**


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	\$235	filing fee
+	\$75	administrative fee
	\$310	total fee

Chapter 13 is for individuals who have regular income and would like to pay all or part of their debts in installments over a period of time and to discharge some debts that are not paid. You are eligible for chapter 13 only if your debts are not more than certain dollar amounts set forth in 11 U.S.C. § 109.

Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, usually using your future earnings. If the court approves your plan, the court will allow you to repay your debts, as adjusted by the plan, within 3 years or 5 years, depending on your income and other factors.

After you make all the payments under your plan, many of your debts are discharged. The debts that are not

discharged and that you may still be responsible to pay include:

- domestic support obligations,
- most student loans,
- certain taxes,
- debts for fraud or theft,
- debts for fraud or defalcation while acting in a fiduciary capacity,
- most criminal fines and restitution obligations,
- certain debts that are not listed in your bankruptcy papers,
- certain debts for acts that caused death or personal injury, and
- certain long-term secured debts.

#### Warning: File Your Forms on Time

Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information about your creditors, assets, liabilities, income, expenses and general financial condition. The court may dismiss your bankruptcy case if you do not file this information within the deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

For more information about the documents and their deadlines, go to:

[http://www.uscourts.gov/bkforms/bankruptcy\\_forms.html#procedure](http://www.uscourts.gov/bkforms/bankruptcy_forms.html#procedure).

#### ***Bankruptcy crimes have serious consequences***

- If you knowingly and fraudulently conceal assets or make a false oath or statement under penalty of perjury—either orally or in writing—in connection with a bankruptcy case, you may be fined, imprisoned, or both.
- All information you supply in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the U.S. Trustee, the Office of the U.S. Attorney, and other offices and employees of the U.S. Department of Justice.

#### ***Make sure the court has your mailing address***

The bankruptcy court sends notices to the mailing address you list on *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101). To ensure that you receive information about your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address.

A married couple may file a bankruptcy case together—called a *joint case*. If you file a joint case and each spouse lists the same mailing address on the bankruptcy petition, the bankruptcy court generally will mail you and your spouse one copy of each notice, unless you file a statement with the court asking that each spouse receive separate copies.

#### ***Understand which services you could receive from credit counseling agencies***

The law generally requires that you receive a credit counseling briefing from an approved credit counseling agency. 11 U.S.C. § 109(h). If you are filing a joint case, both spouses must receive the briefing. With limited exceptions, you must receive it within the 180 days *before* you file your bankruptcy petition. This briefing is usually conducted by telephone or on the Internet.

In addition, after filing a bankruptcy case, you generally must complete a financial management instructional

course before you can receive a discharge. If you are filing a joint case, both spouses must complete the course.

You can obtain the list of agencies approved to provide both the briefing and the instructional course from:  
<http://www.justice.gov/ust/list-approved-providers-personal-financial-management-instructional-courses-debtor-education>.

If you do not have access to a computer, the clerk of the bankruptcy court may be able to help you obtain the list.

## II. Filing a Bankruptcy Case for Individuals (Chapters 7, 11, 12 and 13)

### A. *Voluntary Petition for Individuals Filing for Bankruptcy (Official Form 101).*

*Clerk's Note: A separate Exhibit D is no longer required. Exhibit D is included in Part 5 of Official Form 101 as of December 1, 2015.*

### B. *Filing Fee*

Chapter 7 - \$335.00

Chapter 11 (non-railroad) – \$1,717.00

Chapter 11 (railroad) - \$1,550.00

Chapter 12 - \$275.00

Chapter 13 - \$310.00

Or

**Application for Individuals to Pay the Filing Fee in Installments** (Official Form 103A) with proposed order. Debtor(s) must be individual and must submit a signed Application for Court approval. Rule 1006(b), Fed.R.Bankr.P.

Or

**Application to Have the Chapter 7 Filing Fee Waived** (Official Form 103B) with proposed order 11 USC §1930(f)(1). Use this form only if you are filing under chapter 7 and you meet the criteria to have the chapter 7 filing fee waived.

### C. *Declaration for Electronic Filing* (Exhibit B-1 or B-2 to LBR Appendix 5005)

If case is filed electronically, must be executed by the debtor(s) and original submitted to the Court within seven (7) days in paper format. LBR, Appendix 5005, Part II (Electronic Filing and Service of Documents) paragraph C. (Signatures) sub-section 3.

Or

### *Statement About Your Social Security Numbers* (Official Form 121)

If case is filed by pro se debtor(s) and received via the U.S. mail, must be executed by the individual debtor(s) and original submitted to the Court within seven (7) days in paper format.

### D. *Notice to Individual Consumer Debtor(s)* (Director's Form 2010)

*Clerk's Note: For individual debtor(s) without attorney representation only. Individual debtor(s) without attorney representation must review form 2010 and certify that notice has been obtained and read by signing Part 7 of Official Form 101. See Part I above for Form 2010.*

***E. Certificate of Budget and Credit Counseling Course with any Debtor Repayment Plan developed with credit agency***

Required at filing for all individual debtors; 11 USC §521

Or

Motion for Exemption from Credit Counseling with Certificate of Exigent Circumstances. See line 15 of the *Voluntary Petition for Individuals Filing for Bankruptcy* (Official Form 101).

***F. List of Creditors*** (Master Mailing List “Matrix”)

Names and addresses of all creditors of the debtor. Must be submitted with the petition. Rule 1007(a), Fed.R.Bankr.P. and LBR Appendix 1007-b-5.

For Individual Chapter 11 Cases Only: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders (Official Form 104).

***G. Initial Statement About an Eviction Judgment Against You (101A) and Statement About Payment of an Eviction Judgment Against You (101B).***

*Clerk’s Note: Use Form 101A if your landlord has an eviction judgment against you. If you complete Form 101A and you want to stay in your residence for the first 30 days after you file, you must indicate that on the form. Use Form 101B if you have completed Form 101A and you want to stay in your rented residence for more than 30 days after you file for bankruptcy.*

***H. Schedules*** (Official Forms 106-Summary, 106-Declaration, A/ B, C, D, E/ F, G, H, I, J, J-2)

- Summary - Summary of Your Assets and Liabilities and Certain Statistical Information (Individuals)
- Declaration - Declaration About an Individual Debtor’s Schedules (Official Form 106-Declaration)
- Schedule A/B – Property (Official Form 106A/B)
- Schedule C – The Property You Claim as Exempt (Official Form 106C)
- Schedule D – Creditors Who Have Claims Secured by Your Property (Official Form 106D)
- Schedule E/F - Creditors Who Have Unsecured Claims (Official Form 106E/F)
- Schedule G - Executory Contracts and Unexpired Leases (Official Form 106G)
- Schedule H – Your Co-Debtors (Official Form 106H)
- Schedule I – Your Income (Official Form 106I)
- Schedule J– Your Expenses (Official Form 106J); and Schedule J-2- Expenses for Separate Household of Debtor 2 (Official Form 106J-2)

Must be submitted within 14 days. Rule 1007(b) & (c), Fed.R.Bankr.P.



***I. Your Statement of Financial Affairs for Individuals Filing for Bankruptcy*** (Official Form 107). Must be submitted within 14 days. Rule 1007(b) & (c), Fed.R.Bankr.P.

***J. Disclosure of Compensation of Attorney for Debtor.***

Must be submitted within 14 days. 11 USC § 329 and Rule 2016(b), Fed.R.Bankr.P.

Or

Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer with Notice to Debtor by Non-Attorney Bankruptcy Petition Preparer (Official Forms 119). Declaration must be submitted with the petition. 11 USC §110.

*Clerk's Note: If filed electronically at the front counter, no additional copies are required. If filed by a pro se debtor using the U.S. Mail and a file stamped copy is to be returned to the debtor, an additional copy is required, plus a suitably sized, self-addressed envelope with sufficient postage affixed.*

**If you file under chapter 7, you must also file:**

- ***Statement of Intention for Individuals Filing Under Chapter 7*** (Official Form 108). Required if the debtor is an individual and the schedule of assets and liabilities contains consumer debts secured by property of the estate. Must be submitted within 30 days of filing of the petition or by the date set for the Section 341 first meeting of creditors, whichever is earlier. 11 USC § 521(2).
- ***Chapter 7 Statement of Your Current Monthly Income (Official Form 122A-1) and Means Test Calculation (Official Form 122A-2)***

Or

- **Motion for Exemption from Means Test** 11 USC §707

**If you file under chapter 11, you must also file:**

- ***Chapter 11 Statement of Your Current Monthly Income*** (Official Form 122-B)

If you file under chapter 11 and qualify as a small business debtor (see LR 1020 (a)), within 14 days after you file your bankruptcy forms to open your case, you must also file your most recent:

- Balance sheet
- Statement of operations
- Cash-flow statement
- Federal income tax return

*Clerk's Note: If you do not have these documents, you must file a statement made under penalty of perjury that you have not prepared a balance sheet, statement of operations, or cash-flow statement or you have not filed a federal tax return. If you file under chapter 11, you must file additional documents beyond the scope of these instructions. You should consult your attorney.*

If you file under chapter 12, you must also file:

- **Chapter 12 Plan** (within 90 days after you file your bankruptcy forms to open your case)

If you file under chapter 13, you must also file:

- **Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period** (Official Form 122C-1)
- **Chapter 13 Calculation of Your Disposable Income** (Official Form 122C-2)
- **Chapter 13 Plan**

### III. Filing a Bankruptcy Case for Non-Individuals (Chapters 7 and 11)

#### A. Voluntary Petition for Non-Individuals Filing for Bankruptcy (Official Form 201).

With Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11 (Official Form 201A)

*Clerk's Note: Must be attached to petition if debtor is required to file periodic reports (e.g. forms 10K and 10Q) with the Securities & Exchange Commission pursuant to Sections 13 or 15(d) of the Securities Act of 1934 and is requesting relief under chapter 11 of the Bankruptcy Code.*

#### B. Filing Fee

Chapter 7 - \$335.00

Chapter 11 (non-railroad) – \$1,717.00

Chapter 11 (railroad) - \$1,550.00

Or

**Application for Individuals to Pay the Filing Fee in Installments** (Official Form 103A) with proposed order. Debtor(s) must be individual and must submit a signed Application for Court approval. Rule 1006(b), Fed.R.Bankr.P.

Or

**Application to Have the Chapter 7 Filing Fee Waived** (Official Form 103B) with proposed

order 11 USC §1930(f)(1). Use this form only if you are filing under chapter 7 and you meet the criteria to have the chapter 7 filing fee waived.

**C. Declaration for Electronic Filing** (Exhibit B-1 or B-2 to LBR Appendix 5005)

If case is filed electronically, must be executed by the debtor(s) and original submitted to the Court within seven (7) days in paper format. LBR, Appendix 5005, Part II (Electronic Filing and Service of Documents) paragraph C. (Signatures) sub-section 3.

Or

*Statement About Your Social Security Numbers* (Official Form 121)

If case is filed by pro se debtor(s) and received via the U.S. mail, must be executed by the individual debtor(s) and original submitted to the Court within seven (7) days in paper format.

**D. List of Creditors** (Master Mailing List “Matrix”)

Names and addresses of all creditors of the debtor. Must be submitted with the petition. Rule 1007(a), Fed.R.Bankr.P. and LBR Appendix 1007-b-5.

**E. Schedules** (Official Forms 206-Summary, Declaration, A/ B, C, D, E/ F, G, H)

- Summary - Summary of Your Assets and Liabilities and Certain Statistical Information (Non-Individuals) (Official Form 206-Summary)
- Declaration - Declaration Under Penalty of Perjury for Non-Individual Debtors (Official Form 202)
- Schedule A/B – Property (Official Form 206A/B)
- Schedule D - Creditors Holding Secured Claims (Official Form 206D)
- Schedule E/F - Creditors Who Have Unsecured Claims (Official Form 206E/F)
- Schedule G - Executory Contracts and Unexpired Leases – Individuals (Official Form 206G)
- Schedule H – Your Co-Debtors (Official Form 206H)

Must be submitted within 14 days. Rule 1007(b) & (c), Fed.R.Bankr.P.

**F. Statement of Financial Affairs** (Official Form 207).

Must be submitted within 14 days. Rule 1007(b) & (c), Fed.R.Bankr.P.

**G. Disclosure of Compensation of Attorney for Debtor.**

Must be submitted within 14 days. 11 USC § 329 and Rule 2016(b), Fed.R.Bankr.P.

Or

Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer with Notice to Debtor by Non-Attorney Bankruptcy Petition Preparer (Official Form 119).

Must be submitted with the petition. 11 USC §110.

*Clerk's Note: If filed electronically at the front counter, no additional copies are required. If filed*

by a pro se debtor using the U.S. Mail and a file stamped copy is to be returned to the debtor, an additional copy is required, plus a suitably sized, self-addressed envelope with sufficient postage affixed.

#### H. Statement of current income and current expenditures (use forms specific to the chapter being filed)

If you file under chapter 11 and qualify as a small business debtor, you must also file:

If you file under chapter 11 and qualify as a small business debtor (see Local Rule 1020(a)), within 14 days after you file your bankruptcy forms to open your case, you must also file your most recent:

- Balance sheet
- Statement of operations
- Cash-flow statement
- Federal income tax return

*Clerk's Note: If you do not have these documents, you must file a statement made under penalty of perjury that you have not prepared a balance sheet, statement of operations, or cash-flow statement or you have not filed a federal tax return. If you file under chapter 11, you must file additional documents beyond the scope of these instructions. You should consult your attorney.*

### IV. Voluntary Chapter 15 Case

A. *Petition for Recognition of Foreign Proceeding* (Official Form 401).

B. *Filing Fee* of \$1,717.00

C. *Chapter 15 Service List*

### V. Involuntary Chapter 7 or 11 Case – Individual/Non-Individual

A. *Involuntary Petition Against an Individual* (Official Form 105). 11 USC § 303.

Or

*Involuntary Petition Against a Non-Individual* (Official Form 205). 11 USC § 303.

B. *Declaration for Electronic Filing* (Exhibit B-1 or B-2 to LBR Appendix 5005)

If case is filed electronically, must be executed by the debtor and submitted to the Court within seven (7) days in paper format. LBR, Appendix 5005, Part II (Electronic Filing and Service of Documents) paragraph C. (Signatures) sub-section 3.

**C. Filing Fee**

For a Chapter 7 case, Filing Fee of \$335.00

Or

For a Chapter 11 non-railroad case, Filing Fee of \$1,717.00. For a Chapter 11 railroad case, Filing Fee of \$1,550.00

Fee may not be paid in installments Rule 1006(b), Fed.R.Bankr.P.

**D. Completed Summons to Debtor in Involuntary Case** (Procedural Form 2500E)

*Clerk's Note: If filed electronically at the front counter, no additional copies are required. If filed by a pro se debtor using the U.S. Mail and a file stamped copy is to be returned to the debtor, an additional copy is required, plus a suitably sized, self-addressed envelope with sufficient postage affixed.*

**VI. Adversary Case**

**A. Filing fee** of \$350.00 for complaint.