

MCDOWELL LAW, PC

GET THE FACTS..... 7 BANKRUPTCY MYTHS YOU SHOULDN'T BELIEVE

A FREE EBOOK BY ELLEN M. MCDOWELL, ESQ.



Myth #1

I will lose my home if I file bankruptcy..

If you are current with your mortgage payments and don't have a lot of equity in your home, you can probably keep it even after you discharge your debts in a bankruptcy proceeding.

In a Chapter 7 case, also known as a liquidation, the trustee appointed to your case has a duty to “liquidate” or sell your assets if they can generate funds to pay your debts. But if there will be no net proceeds after costs of sale and your federal exemption in the equity in your home, the trustee will not bother with it. This means that in many cases you can continue to own your home after the bankruptcy as long as you keep making the mortgage payments.

Even if you are behind in your mortgage payments, you may be able to “cure” the mortgage delinquency in a Chapter 13 reorganization case and keep your home. In a Chapter case you must make your regular mortgage payments after you file your case, but you can make up the past due payments over the course of anywhere from 36 to 60 months. This helps if you have temporarily fallen behind in your mortgage due to job loss or medical issues.

Myth #2

**I can't file
bankruptcy if my
house is already in
foreclosure..**

Even if your house is being foreclosed on, you can still cure the delinquency through a Chapter 13 bankruptcy plan. Or you might be eligible for a loan modification.

Often filing a Chapter 13 case gives you the time to figure out how best to deal with the mortgage company because it stops the foreclosure case from proceeding until you propose a plan to deal with the mortgage arrears.

Myth #3

**I can't keep my car if
I file bankruptcy..**

The same analysis
holds true for a vehicle
as for your home.

As long as your car payments are current and you don't have excess equity in the car, the trustee won't be interested in selling it.

That means that you can generally keep your car after you discharge your debts.

Even if you are behind in your car loan, you can make up the past-due payments through a Chapter 13 bankruptcy plan and keep the car.

Myth #4

Everyone is going to know if I file bankruptcy..

The only people who are officially notified about the bankruptcy are the people that you owe money to.

Your employer does not get notified, nor do your neighbors.

However, bankruptcy filings are public records, and if someone does an internet search specifically to find out if you filed a bankruptcy case, they could find that information online.

Myth #5

**I am not eligible for
bankruptcy because
I have a good job
with earnings..**

**If you have over a
certain amount of
household earnings for
a household of your
size, you may have to
file a Chapter 13.**

A Chapter 13 bankruptcy case
and repay some of your debt
over a period of 36 to 60
months, but you are still eligible
to restructure your debts and
get relief from debt collectors in
a bankruptcy.

Myth #6

My credit will be ruined forever..

Absolutely not.

While you cannot borrow money or obtain credit while you are in a bankruptcy proceeding without getting court approval, after your case is closed you can immediately start rebuilding your credit.

Many of our clients report having credit scores of 700 or higher within a year after emerging from bankruptcy.

If your credit score is your concern, filing for bankruptcy to discharge crushing debt is actually a smarter option than trying to deal with your creditors outside of bankruptcy. That's because it usually takes years to pay off debt that has accumulated over time, if you can do it at all, and during that time, when your credit cards are maxed out and any major medical bill or car repair can cause you to have late payments, your credit score is being negatively affected. Bankruptcy often helps you to improve your credit score much more quickly.

Myth #7

Paying off my debt is smarter than filing for bankruptcy..

If you are just making the minimum payments on your credit cards, or even if you are able to pay a little more than the minimums, it could take years to pay off your debt, and you will be paying astronomically high amounts of interest on top of the actual debt that you incurred.

This cycle could stop you from contributing to your retirement accounts, purchasing a home and building equity or pursuing other financial goals.

If this is the situation you are in it is probably best to discharge your debt in a bankruptcy and get a fresh start in life.

This is what the bankruptcy system is designed for - to get people out of a downward spiral and get them back on their financial feet. Start down the path of financial recovery today. You will feel much better if you just take the first step.