

7 NJ Bankruptcy Law

Federal Bankruptcy Law

Bankruptcy is designed to give a debtor a fresh start and is governed by Federal Law. Although rarely done in New Jersey, one can elect to use certain state law exemptions. There are several different types of bankruptcy:

- ∞ Chapter 7: Liquidation Under the Bankruptcy Code
- ∞ Chapter 9: Municipality Bankruptcy
- ∞ Chapter 11: Reorganization Under the Bankruptcy Code
- ∞ Chapter 12: Family Farmer Bankruptcy or Family Fisherman Bankruptcy
- ∞ Chapter 13: Individual Debt Adjustment
- ∞ Chapter 15: Ancillary and Other Cross-Border Cases

A Chapter 7 Bankruptcy applies to either individuals or businesses. It is commonly known as a liquidation where the court, through an appointed Trustee, may sell some or all of a Debtor's assets if the assets of the Debtor exceed the value of the exemptions permitted under the Bankruptcy Code. Some examples of exemptions available under Federal Law include, but are not limited to, part of the equity in your home, pensions, Individual Retirement Accounts (I.R.A.s) and household goods. As your lawyers, our firm will not only explore the available exemptions but also ensure that these exemptions are elected and received for your benefit. A Chapter 7 Bankruptcy allows the Debtor to discharge most of his or her unsecured debts such as credit cards and medical bills. Most people who qualify for a Chapter 7, however, do not have significant assets where the Trustee liquidates the Debtor's assets. As your advocate, our firm will diligently analyze your specific situation and if it appears that your assets potentially may be sold, we may recommend the filing of a Chapter 13 Bankruptcy petition. In order to qualify for a Chapter 7 Bankruptcy filing, you must satisfy a "means test", the outcome of which directs which Chapter you would be eligible to file under the Bankruptcy Code. As your counsel, we would do the appropriate income analysis and evaluate your best options tailored to your individual needs and situation.

Chapter 11 is a "Reorganization," filing. Most Chapter 11 filings are used by businesses who wish to remain intact although individuals can and do under certain circumstances file under this Chapter of the Bankruptcy Code. Creditors are repaid by way of a court-approved "plan of reorganization." The Bankruptcy Code permits a debtor to reject certain executory contracts or leases in an effort to assist in the reorganization. If you have a business and are contemplating filing for bankruptcy protection, allow us to evaluate your situation to ascertain the best way to proceed on your behalf.

Chapter 13 is similar to Chapter 11, except that it applies only to individuals. Chapter 13 has debt limitations where if an individual exceeds those limitations then they would be precluded from filing a Chapter 13 and would instead file a Chapter 11. These debt limitations do not apply to the vast majority of individuals wishing to proceed with a Chapter

13 Bankruptcy petition. The benefit of a Chapter 13 is, for example, if you have equity in your home or you are behind in your mortgage - as part of the plan of reorganization, you may keep your house. Likewise if you have significant assets, Chapter 13 may be beneficial to you. Chapter 13 allows individuals to reorganize through a confirmed plan usually over 3-5 years and allows Debtors to keep assets which may otherwise be liquidated in a Chapter 7 proceeding.

The other three types of Bankruptcy filings are for special situations.

[Bankruptcy Exemptions](#)

When filing for Chapter 7 Bankruptcy you get to keep certain property that is “exempt” from the bankruptcy. In New Jersey, you have a choice between using the federal statutory bankruptcy exemptions or using the New Jersey state exemptions. You cannot “mix and match.” Generally speaking, in New Jersey, the Federal exemptions are preferable to the State exemptions but you must choose one system or the other. It is important to examine both to determine which one is better suited for your particular situation. Analyzing the exemption as it applies to your individual scenario is an important analysis. As your counsel, we take a detailed look at all the options and provide you with sound advice from seasoned attorneys.

[Filing for Bankruptcy in New Jersey](#)

Bankruptcy is filed in a [Federal Bankruptcy Court](#), which is part of the United States District Court for the District of New Jersey. Courthouses are located in Camden, Newark, and Trenton. The particular court that is used for filing depends on where you reside. Our attorneys will consult with you to help analyze your specific situation and determine what option is best for you.