

BANKRUPTCY LEGAL NOTICES

The following disclosures are required pursuant to 11 U.S.C. §527. If you do not understand these disclosures, you should seek legal advice or conduct the necessary research to educate yourself.

NOTE: YOU MAY BE CONSIDERED AN "ASSISTED PERSON" ACCORDING TO THE BANKRUPTCY CODE.

An assisted person is "any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than \$175,750[*]." 11 U.S.C. §101(3).

BAPCA REQUIRED NOTICE (§ 342(b)(1) of the Bankruptcy Code) PURPOSES, BENEFITS AND COSTS OF BANKRUPTCY

This discussion is intended only as a brief overview of the types of bankruptcy. You should not decide whether or not to file for bankruptcy relief solely on this information. Bankruptcy law is complex, and there are many considerations that must be taken into account in making the determination whether or not to file. Anyone considering bankruptcy is encouraged to make a decision only after seeking the advice and assistance of an experienced bankruptcy attorney.

To put it bluntly, bankruptcy is a legal way to avoid paying people what you owe them. Bankruptcy has biblical antecedents, however. Look at the "Jubilee Year" and the forgiveness of debt in Leviticus 25. Since there is no Jubilee Year today, in many situations bankruptcy is the only way that you can keep your home from foreclosure, your car from repossession, your possessions from auction and creditors from making your life miserable.

When a person is discharged in bankruptcy, he or she is relieved from liability for most debts incurred before the bankruptcy was filed and protected from future collection of those debts. The purpose of bankruptcy is to give you a "fresh start," and the bankruptcy code is interpreted by the Courts to give effect to these words.

Types of Bankruptcy

The Bankruptcy Code is divided into chapters. The chapters that usually apply to consumers are Chapter 7, where most or all of your debt is wiped out, and Chapter 13, which involves a repayment plan.

In most cases, once you file your case, the "Automatic Stay" immediately goes into effect. The Automatic Stay means that a bankruptcy filing automatically stops, or stays, and brings to a halt most lawsuits, repossessions, foreclosures, evictions, garnishments, attachments, utility shut-offs, and debt collection harassment. Generally, creditors cannot

take any further action against you or your property without permission from the Bankruptcy Court.

Chapter 7. Chapter 7 is designed for people who are having financial difficulties and are not able to repay their debts.

Under the changes to the Bankruptcy Code that took effect October 17, 2005, you can usually qualify for a Chapter 7 if your average gross monthly income for the last six months is below your state's Median Income, your gross income less certain expenses is below your state's Median Income, or you can show "special circumstances" that would allow you to qualify for Chapter 7.

Under Chapter 7, you may be able to exempt, or keep, many of your assets under Georgia law, or, if you have not lived in Georgia for the past two years, under the state's exemption law that applies to your case. Most retirement accounts and pensions are also exempt. Secured property, normally your car and house, may not have any net equity, in which case you can keep it as well. The Trustee liquidates most non-exempt property and uses the proceeds to pay your creditors according to priorities of the Bankruptcy Code.

Once your Chapter 7 case is over, you receive a Discharge. The discharge prevents your creditors from taking any steps to try to collect their unsecured debt. They cannot call you, write you, sue you, or take any steps that could be considered an attempt to collect its debt. If you want to keep property that has a lien on it, you must keep your payments current, and may be required to reaffirm your debt. Some debts cannot be discharged. Typical examples are child support, alimony, and other domestic support obligations, some taxes, student loans, criminal restitution, and debts for death or personal injury caused by operating vehicles while intoxicated with alcohol or drugs.

Chapter 13. Chapter 13 is a valuable tool that lets you catch up overdue mortgage or car payments, taxes and domestic support obligations. It also applies where you have the ability to repay some or all of your debts over time. You must have less than \$360,475 in unsecured debt (such as credit cards and doctor's bills) and less than \$1,081,400 in secured debt (such as mortgages and car loans) to qualify for Chapter 13. Under Chapter 13, you can keep all of your property, both exempt and non-exempt, as long as you resume making your regular payments on secured debt and keep current under the repayment plan that you propose. A repayment plan can last for up to five years. After finishing your payments, most of your unsecured debts are discharged.

Chapter 11. Chapter 11 is designed primarily for business reorganization, but is also available to consumer debtors. Its provisions are quite complex. In the vast majority of cases, Chapter 11 is unnecessary and too expensive for most consumer debtors.

Chapter 12. Chapter 12 lets family farmers repay their debts over a period of time, and is in many ways similar to Chapter 13.

Credit Counseling: Reputable credit counselors can advise you on managing your money and your debts. They may also be able to develop a plan to repay your debts. Unfortunately, many credit counselors are not reputable and charge high fees and contributions that will cause you to fall deeper into debt and damage your credit rating. Furthermore, many misrepresent their non-profit status and/or their affiliations with religious or charitable organizations, and are little more than collection agents for credit card companies.

Under the changes to the Bankruptcy Code that took effect October 17, 2005, you are required to take two short credit counseling courses, one before you file bankruptcy, and one after you have filed. We will refer you to a reputable credit counselor who has been approved by the United States Trustee Department for these courses.

Anti-Fraud Disclosures

Some or all of the information you provide in connection with your bankruptcy will be filed with the bankruptcy court on forms or documents that you will be required to sign and declare as true under penalty of perjury

Section 547(a)(1) requires the following disclosures:

"a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and

all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General."

BAPCA REQUIRED NOTICE (§ 527(a)(2) of the Bankruptcy Code) NOTICE OF MANDATORY DISCLOSURE TO CONSUMERS WHO CONTEMPLATE FILING BANKRUPTCY

Please Note: These Notices are required by legislation adopted by Congress in 2005, after intense lobbying by the credit industry. In our opinion, these notices are designed to scare and intimidate good people who have had bad things happen to them, and need debt relief. These Notices are based on the false assumption that all people who consider bankruptcy relief are dishonest. Please rest assured -- so long as you are honest and meet the requirements set out under the law, you are entitled to debt relief. We can guide you through all the requirements of filing bankruptcy, so long as you provide us accurate and complete information.

1. All information that the assisted person is required to provide with a petition thereafter during a case under this title is required to be complete, accurate and truthful.
2. All assets and all liabilities are required to be completely and accurately disclosed in

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the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value.

3. Current monthly income, the amounts specified in section 707(b)(2) and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

4. Information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

BAPCA REQUIRED NOTICE (§ 527(c) of the Bankruptcy Code) HOW TO PROVIDE THE NECESSARY INFORMATION TO FILE FOR BANKRUPTCY

VALUATION OF ASSETS:

According to Section 527(c), assets should be valued at replacement value as of the date of filing for bankruptcy without deducting for costs or sale or marketing. Replacement value is "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." 11 U.S.C. §506.

CURRENT MONTHLY INCOME:

According to Section 101(10A), current monthly income is as follows:

(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on:

(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or (ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism.

DISPOSABLE INCOME:

Disposable income should be calculated according to 11 U.S.C. §707(b). Section 707(b) states in part,

(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's

current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lessor of— (I) 25 percent of the debtor's nonpriority unsecured claims in the case, or \$10,950 [*], whichever is greater;

(2)(A)(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the debtor, the spouse of the debtor, or the dependents of the debtor. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for the United States Trustees.

(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed \$1,650[*] per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of:

- (I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and
- (II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts; divided by 60.

(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide –

- (I) documentation for such expense or adjustment to income; and
- (II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (I) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of –

- (I) 25 percent of the debtor's nonpriority unsecured claims, or \$6,000.00[*], whichever is greater; or
- (II) \$10,000[*].

(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and calculations that determine whether a presumption arises under subparagraph (A)(I), that show how each such amount is calculated.

(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if the debtor is a disabled veteran (as defined in section 3741(1) of title 38), and the indebtedness occurred primarily during a

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period during which he or she was –

- (i) on active duty (as defined in section 101(d)(1) of title 100; or
- (ii) performing a homeland defense activity (as defined in section 901(1) of title 32).

LISTING CREDITORS:

Debtors are required pursuant to the Bankruptcy Code to list all liabilities on the bankruptcy petition. As such, all creditors should be listed on the appropriate bankruptcy schedule. Creditors should be listed according to the type of the debt owed. There are three types of debts: Secured, Priority, and Unsecured. Creditors holding debts that are secured by property of the debtor are secured creditors. These creditors can repossess the collateral in the event the debtor defaults on the loan. Mortgage lenders and vehicle lenders are the most common secured creditors. Homeowner associations and the county real property tax assessor are other secured claimants. Secured debts are governed by Section 506. Secured creditors are listed on Schedule D of the bankruptcy petition.

Priority creditors are creditors who have certain types of debt such as that owed to the Internal Revenue Service, a government agency, or a domestic support claimant. Priority debts are described within 11 U.S.C. §507. Priority creditors are listed on Schedule E of the bankruptcy petition.

Creditors that are not secured by property of the debtor are considered unsecured creditors. Credit card companies, payday loan companies, and medical service providers are the most common unsecured creditors. Unsecured creditors are listed on Schedule F of the bankruptcy petition.

AMOUNT OF DEBT OWED:

The best way to determine the amount owed to creditors is to refer to a statement or invoice issued by the creditor. The creditor can also be contacted directly for the total balance.

NOTICING:

Creditors' addresses should be listed in accordance with the Bankruptcy Code and other applicable law.

11 U.S.C. §342(c)(2)(A) states,

If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

Also, 11 U.S.C. §342 (e)(1) states,

In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at

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any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

Further, 11 U.S.C. §342 (g)(1) states,

Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

To prevent a creditor from later claiming it did not receive proper notice of the bankruptcy case and thus did not have an opportunity to object to a debtor's case, it is highly recommended to notice each creditor at the address(es) that it wants to receive correspondence. *Most creditors do not accept correspondence at payment addresses.* Some creditors have special departments that process bankruptcy notices and documents. It is best to comply with any requests to receive bankruptcy notices at a particular address or department.

EXEMPTION OF PROPERTY:

Debtors are entitled to exempt certain property that they own pursuant to bankruptcy and/or exemption law subject to certain restrictions and limitations. Depending on the domicile requirements pursuant to 11 U.S.C. 522(a)(3)(A), debtors may be required to apply the federal exemptions found within Section 522. If a debtor satisfies the domicile requirements and if the state of domicile has opted out of the federal exemptions, then the debtor may claim the applicable state exemptions. The exemption statutes vary from state to state. Further research on the part of the unrepresented debtor(s) will be necessary.

ACKNOWLEDGMENT OF RECEIPT:

I ACKNOWLEDGE RECEIPT OF THIS NOTICE
PURSUANT TO BANKRUPTCY CODE § 527(B)

CLIENTS

DATE:

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