

BANKRUPTCY PROCESS

1. **Initial consultation** with an attorney is to evaluate your individual financial situation to determine if bankruptcy is your best option and the type of bankruptcy that would best suit you.
2. You make your initial **payment** on bankruptcy attorney fees and court costs (amount to be determined at initial consultation). Thereafter, you may tell creditors who contact you to call our office.
3. You should not pay any family member, friend or business associate (i.e. "insiders") any money owed to that group of people within 12 months prior to the filing of your bankruptcy petition.
4. You must bring all necessary **documents** to our office (a list is attached).
5. An appointment is scheduled for you with our office staff to obtain a **Credit Bureau Report** on you.
6. All relevant information is processed and staff reviews the documents, Bankruptcy petition and schedules.
7. The balance of our fees are paid.

These fees are for your bankruptcy case. They **do not** include fees for representing you in other matters, such as defending you in state court legal actions or other civil matters, correcting errors on your credit bureau report, forcing creditors to pick up collateral, etc. If you have questions about these matters you should ask Mr. Perdue.

Additionally, these fees **do not** include representing you in adversary proceedings (a separate proceeding inside the bankruptcy case whereby a creditor is claiming a debt to be non-dischargeable) or appeals in your bankruptcy case. If you have questions about these matters you should ask Mr. Perdue.

8. An appointment is scheduled for you to **review**, make any necessary corrections or additions, and **sign** your bankruptcy petition and schedules.

9. On 16 October 2005 the Bankruptcy Abuse Prevention and Consumer Protection Act became law. The law requires that debtors complete two programs of financial education. The first program must be completed prior to the filing of your bankruptcy petition. This is the so-called "**ticket in counseling**". The second counseling program must be done after the filing of your bankruptcy petition. This is the so-called "**ticket out counseling**". Both of these counseling sessions can be done by the internet or by telephone.

Currently, I am utilizing the services of GreenPath Debt Solutions for this counseling. Their counseling is done by telephone or internet. They provide ready access to the counseling sessions, a rapid response once the counseling has been completed, and utilize a toll free telephone line for the service (which appears to be more convenient for most clients).

Ticket in counseling: You will telephone GreenPath and they will take a check over the telephone. Once their fees are paid they will conduct the counseling session(s).

You should allot at least one hour for the **ticket in counseling** program. Each person seeking relief under the bankruptcy code must be on the telephone line during the entire counseling session. Once this counseling is completed, GreenPath will transmit to me a Certificate of Completion via the internet. I must have this Certificate in-hand prior to the filing of your bankruptcy petition.

10. Your petition and schedules are **electronically filed** with the Bankruptcy Court and a case number is assigned to your case. Upon the actual filing of the petition the "automatic stay" goes into effect and your creditors are prohibited from proceeding with collection efforts (telephone calls, letters, bills, lawsuits, garnishments, judicial sales, etc.).
11. You may continue to receive some letters or telephone calls after the filing of your petition. This is generally attributable to the time gap between filing and actual notice being received by the creditor and the time that the creditors computer system information is updated. If you receive telephone calls or letters, give the creditor your bankruptcy case number and our name and telephone number. If the creditors persist or are abusive, contact our office and we will take appropriate legal action. This may include sending a letter to the creditor advising that they are in violation of federal law or filing a motion with the bankruptcy court to

- hold the creditor in contempt of court.
12. You may not sell, dispose, or trade property after bankruptcy petition has been filed unless specifically authorized to do so by the bankruptcy court. This includes disposing of income tax refunds or surrendering property to a creditor.
 13. Once your bankruptcy case has been filed, you must complete a second financial education program (**Ticket out counseling**). You will telephone GreenPath and they will take a check over the telephone. Once their fees are paid you will contact GreenPath and they will mail you a booklet to review. Each of you must review the booklet. Thereafter, both of you will telephone GreenPath and they will ask each of you a series of questions (approximately 25). Once you have answered those questions, a person will come on the telephone line to discuss your responses.

Thereafter GreenPath will transmit to my office via the internet a Certificate of Completion. This **ticket out counseling** must be filed with the court before a discharge order can be entered. The certificate and the appropriate form must be signed and filed with the court within 45 days of the date of the first meeting of creditors. If the "**ticket-out counseling**" is not done and duly filed your case may be closed without entry of a discharge order.

If you complete the counseling after your case is closed, it will be necessary to file a motion to reopen, pay the reopening court fees and my additional fees for reopening your case, and file the ticket out counseling certificate.

14. Seven (7) to ten (10) days after the bankruptcy petition has been filed, you will receive an **Order** from the bankruptcy court to provide documents to the Trustee (see paragraph 13). Most of these documents you will have already provided to our office. This order will be followed by a letter from our office to you requesting any additional documents that are needed. Generally, this will include your banks statements thru and showing the balance in your account(s) as of the date of filing. Your prompt and immediate attention to this Order and letter is necessary. Failure to timely deliver all document to the Trustee may result in the dismissal of your case.

15. Seven (7) to ten (10) days after the bankruptcy petition has been filed, you will receive a "**Notice of Bankruptcy Case, Meeting of Creditors & Deadlines**" from the court. It will name a Trustee. This is an attorney who works for the bankruptcy court. The Trustee's job is to review your petition and scheduled to assure that they have been correctly completed and determine if there is any of your property that he can take, sell and use that money to pay your creditors.
16. This notice will have the date and time of the **First Meeting of Creditors** (sometimes called a "**341 Meeting**"). This meeting will be 30 to 45 days after the date your bankruptcy petition was filed. You MUST attend this First Meeting of Creditors. Failure to attend will result in the dismissal of your case. Your MUST have your driver's license (or other photographic identification) and social security card at that meeting.

Although this is called a first meeting of creditors, generally there is not a second meeting and generally your creditors will not appear. Most often the only creditors that appear are secured creditors wanting to know the condition of the property you gave to secure their loan and if you wish to reaffirm on the debt (see paragraph 17).

You should arrive at least 30 minutes prior to your hearing time. This will allow you to watch several other cases before your case is called. Additionally, it will give you an opportunity to hear the questions that the Trustee may ask you and time for you to consider your responses. The meeting will last approximately 5 to 10 minutes. Mr. Perdue or Ms. Cousins will be with you.

Generally the Trustee will ask: your name, address, social security number, telephone number, what caused you to file bankruptcy, is that your signature on the third page of the petition, what date did you sign the petition, is the information therein true and accurate, are there any changes, corrections or additions that need to be made, has anyone died and left you anything, do you expect anyone to die in the next 6 months and leave you anything.

The Trustee will also ask you questions specific to your case.

There are several Trustees and each one has there own manner of conducting this meeting.

17. After the first meeting Mr. Perdue will return most of the documents that you left with him to prepare your petition. Additionally, he will discuss with you any reaffirmation agreements, motions to terminate stay, or other matters regarding your case.
18. 60 to 90 days after the First Meeting of Creditors, you should receive a **Discharge Order**. This means that your liability on your debts has been eliminated. There are exceptions to this rule. For example, most taxes, child support, alimony, student loans, et. al. are not discharged or eliminated by the bankruptcy. If you have questions regarding what debts are discharged you should ask Mr. Perdue.
19. One way that a debt will not be discharged is if you sign a **reaffirmation agreement**. This is a new contract with a creditor to pay a debt and retain the collateral securing that debt. Even if a debt can be discharged, you may have a reason why you want to promise to pay it. Reaffirmation agreements are voluntary. They are not required by bankruptcy law or by any other law. Reaffirmation agreements must not place too heavy a burden on you or your family. They must be in your best interest. They and can be rescinded anytime before the Court issues your discharge or within 60 days after the agreement is filed with the Court, whichever gives you the most time.

If you reaffirm a debt and then fail to pay it, you owe the debt the same as though there was no bankruptcy. The creditor can take action to recover any property on which it has a lien or mortgage. The creditor can also take legal action to obtain a judgment against you and then garnish your wages or bank accounts, place a lien on your property and other collection actions.

20. 60 to 90 days after the First Meeting of Creditors, you should receive a **Final Decree**. This is a court order whereby the court directs the clerk to close your file and place it in storage. Your case is finished.

There may be reasons that this is delayed. If you are required to surrender property to the bankruptcy trustee, then he will have to sell same, give notice to your creditors and obtain court approval and disburse any money he has received. This may delay the closing of your case.