

FTC Consumer Alert

Federal Trade Commission ■ Bureau of Consumer Protection ■ Office of Consumer & Business Education

Advertisements Promising Debt Relief May Be Offering Bankruptcy

Washington, D.C. — Debt got you down? You're not alone. Consumer debt is at an all-time high. What's more, record numbers of consumers — more than 1.5 million in 2004 — are filing for bankruptcy. Whether your debt dilemma is the result of an illness, unemployment, or simply overspending, it can seem overwhelming. In your effort to get solvent, be on the alert for advertisements that offer seemingly quick fixes. While the ads pitch the promise of debt relief, they rarely say relief may be spelled b-a-n-k-r-u-p-t-c-y. And although bankruptcy is one option to deal with financial problems, it's generally considered the option of last resort. The reason: its long-term negative impact on your creditworthiness. Bankruptcy information (both the date of your filing and the later date of discharge) stays on your credit report for 10 years, and can hinder your ability to get credit, a job, insurance, or even a place to live.

The Federal Trade Commission (FTC) cautions consumers to read between the lines when faced with ads in newspapers, magazines or even telephone directories that say:

“Consolidate your bills into one monthly payment without borrowing.”

“STOP credit harassment, foreclosures, repossessions, tax levies and garnishments.”

“Keep Your Property.”

“Wipe out your debts! Consolidate your bills! How? By using the protection and assistance provided by federal law. For once, let the law work for you!”

You'll find out later that such phrases often involve filing for bankruptcy relief, which can hurt your credit and cost you attorneys' fees.

If you're having trouble paying your bills, consider these possibilities before considering filing for bankruptcy:

- **Talk with your creditors.** They may be willing to work out a modified payment plan.
- **Contact a credit counseling service.** These organizations work with you and your creditors to develop debt repayment plans. Such plans require you to deposit money each month with the counseling service. The service then pays your creditors. Some nonprofit organizations charge little or nothing for their services.
- **Carefully consider a second mortgage or home equity line of credit.** While these loans may allow you to consolidate your debt, they also require your home as collateral.

If none of these options is possible, bankruptcy may be the likely alternative. There are two primary types of personal bankruptcy: Chapter 13 and Chapter 7. Each must be filed in federal bankruptcy court. As of November 2005, the filing fees are \$189 for Chapter 13 and \$274 for Chapter 7. Attorney fees are additional and can vary.

The consequences of bankruptcy are significant and require careful consideration. Other factors to think about: Effective October 2005, Congress made sweeping changes to the bankruptcy laws. The net effect of these changes is to give consumers more incentive to seek bankruptcy relief under Chapter 13 rather than Chapter 7. Chapter 13 allows you, if you have a steady income, to keep property, such as a mortgaged house or car, that you might otherwise lose. In Chapter 13, the court approves a repayment plan that allows you to use your future income to pay off your debts during a three-to-five-year period, rather than surrender any property. After you have made all the payments under the plan, you receive a discharge of your debts.

Chapter 7, known as straight bankruptcy, involves the sale of all assets that are not exempt. Exempt property may include cars, work-related tools, and basic household furnishings. Some of your property may be sold by a court-appointed official — a trustee — or turned over to your creditors. The new bankruptcy laws have changed the time period during which you can receive a discharge through Chapter 7. You now must wait eight years after receiving a discharge in Chapter 7 before you can file again under that chapter. The Chapter 13 waiting period is much shorter and can be as little as two years between filings.

Both types of bankruptcy may get rid of unsecured debts and stop foreclosures, repossessions, garnishments and utility shut-offs, and debt collection activities. Both also provide exemptions that allow you to keep certain assets, although exemption amounts vary by state. Personal bankruptcy usually does not erase child support, alimony, fines, taxes, and some student loan obligations. Also, unless you have an acceptable plan to catch up on your debt under Chapter 13, bankruptcy usually does not allow you to keep property when your creditor has an unpaid mortgage or security lien on it.

Another major change to the bankruptcy laws involves certain hurdles that you must clear before even filing for bankruptcy, no matter what the chapter. You must get credit counseling from a government-approved organization within six months before you file for any bankruptcy relief. You can find a state-by-state list of government-approved organizations at www.usdoj.gov/ust. That is the website of the U.S. Trustee Program, the organization within the U.S. Department of Justice that supervises bankruptcy cases and trustees. Also, before you file a Chapter 7 bankruptcy case, you must satisfy a “means test.” This test requires you to confirm that your income does not exceed a certain amount. The amount varies by state and is publicized by the U.S. Trustee Program at www.usdoj.gov/ust.

For More Information

Visit the Federal Trade Commission website, or contact the AFSA’s Education Foundation at 1-888-400-2233 for more credit/money management information.

The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

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