

# Protecting Your Assets

A Consumer's Look At Chapter 13

## Chapter 13 Bankruptcy: Shelter from the storm.

KELLER  
&  
ALMASSIAN<sub>PLC</sub>

230 East Fulton Street, Grand Rapids, Michigan 49503  
Phone 616.364.2100 • Fax 616.364.2200 • [kalawgr.com](http://kalawgr.com)



KELLER  
&  
ALMASSIAN<sub>PLC</sub>  
ATTORNEYS

### **Exactly What Is Chapter 13 Bankruptcy?**

A chapter 13 bankruptcy case is a proceeding under federal law that allows a person to re-pay all or part of his or her debts under the supervision and protection of a trustee and the bankruptcy court.

### **Who Typically Files for Chapter 13?**

A chapter 13 is filed by a person who:

- wishes to re-pay all or a portion of his or her unsecured debts, and who has income with which to do so within a reasonable time;
- has valuable property securing his or her debts, which would be lost in a chapter 7 case;
- is not eligible for a chapter 7 discharge; or
- has sufficient assets to re-pay most debts, but who needs temporary relief from creditors in order to do so.

### **Eligibility**

Any individual is eligible to file a chapter 13 case if he or she:

- resides in, does business in, or owns property in the United States;
- has regular income;
- has unsecured debts of less than \$360,475.00;
- has secured debts of less than \$1,081,400.00;
- is not a stockbroker or a commodity broker;
- has not intentionally dismissed another case within the last 180 days; and
- has received a briefing from an approved credit counseling agency within the last 180 days.

### **How Chapter 13 Protects You**

A chapter 13 bankruptcy is actually a restraining order. It prohibits all creditors from contacting your employers. It stops all legal action, such as wage garnishments and wage deduction orders. Further, the order prohibits all creditors from trying to collect from the individual by telephoning, writing, or filing lawsuits. Finally, it stops all future service charges, fees, penalties, and most court costs.

Unlike a chapter 7 case, a chapter 13 petition allows you to retain your vehicles and home in most cases. Filing a chapter 13 petition allows you to pay for your vehicle over the life of a plan, to stop a foreclosure sale and to pay your mortgage arrearages over the life of a chapter 13 plan.

### **The Chapter 13 Plan**

A chapter 13 plan is a written proposal that allows individuals and small proprietary businesses to pay their debts and avoid liquidation of assets. If the court approves the chapter 13 plan, most creditors will not be allowed to collect their debts from the debtor.

However, the person must make regular payments to a chapter 13 trustee—someone appointed by the United States trustee to collect payments—who disburses the money repaid to creditors, as specified by the plan.

Upon completion of payments called for by the plan, the debtor is released from liability for the dischargeable debts. This process can last up to five (5) years.

### **Chapter 13 And Your Job**

It is illegal for private or governmental employers to discriminate against someone because of a chapter 13 case. It is also illegal for local, state or federal governmental agencies to discriminate against a person in granting licenses, permits, student loans, and similar grants because that person has filed a chapter 13 case.

### **Who Will Know?**

When a chapter 13 case is filed, it becomes public record and the name of the debtor may be published by some credit reporting agencies. However, newspapers do not usually publish the names of persons who file chapter 13 cases.

### **Chapter 13 And Your Credit Rating**

Filing for a Chapter 13 may lower your credit rating, at least temporarily. However, if most of your debts are ultimately paid off under a chapter 13 plan, that fact may be taken into account by credit reporting agencies.

### **How Much You Need to Pay**

We will assist you with determining a proposed payment. Usually, all of the disposable income of the debtor and the debtor's spouse for a period of three (3) to five (5) years must be paid to a chapter 13 trustee, who in turn uses those funds to pay creditors.

### **If You Must Miss Payments**

If you find yourself temporarily out of work, injured, or otherwise unable to make payments required under your chapter 13 plan, the plan can usually be modified to let you resume the payments when you can.

### **What Your Attorney Does**

The debtor's attorney performs the following functions in a chapter 13 case:

- Examining the debtor's financial situation;
- Assisting the debtor in obtaining the required pre-bankruptcy briefing on budget and credit counseling;
- Examining the liens or security interests of secured creditors;
- Devising a plan to deal with secured and unsecured creditors;
- Preparing the necessary Chapter 13 pleadings and forms;
- Attending meetings and hearings;
- Assisting in getting the case confirmed;
- Assisting the debtor in overcoming any legal obstacles that may arise during the course of the case; and
- Assisting the debtor in obtaining a discharge.

The fees charged by an attorney for representing a debtor in a chapter 13 case must be reviewed and approved by the bankruptcy court.

### **The Benefits Of Filing**

By filing for a Chapter 13 bankruptcy you can usually:

- reduce monthly payments;
- obtain court control of costs;
- stop creditors from attaching your wages or contacting you;
- stop or reduce interest charges;
- stop other creditor charges;
- stop repossessions and foreclosures;
- protects co-signers;
- prevent invalid claims; protect your equity and savings, and cancel unwanted contracts.

### **Conclusion**

Deciding to file bankruptcy is not easy. However, Congress designed the Bankruptcy Code to provide financial relief to honest people who need to start over.

The attorneys at KELLER & ALMASSIAN, PLC can provide you with expert, constructive guidance toward your new start, based on years of experience through the bankruptcy process.

*We are a debt relief agency. We help people file for bankruptcy relief under the bankruptcy code.*