



# A Practical Guide to Chapter 12 Bankruptcy for Maryland Farmers and Fishermen

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## What Is Chapter 12 Bankruptcy?

**Bankruptcy** is a financial and legal process designed to help those who can no longer pay their debts get a fresh start. The word bankruptcy can make people cringe because it is widely misunderstood as a type of failure. In fact, pursuing bankruptcy can be a smart risk management and restructuring strategy for people with the courage to start over.

**“BANKRUPTCY REPRESENTS A LONGSTANDING COMMITMENT IN THIS COUNTRY TO HELPING PEOPLE GET A FRESH START. THIS PRINCIPLE HAS NEVER BEEN GIVING ONLY CERTAIN PEOPLE A FRESH START.”**

**-TIM JOHNSON, FORMER SENATOR OF SOUTH DAKOTA**

Most of the bankruptcies in the United States are filed under chapters 7, 11, and 13 which deal with **liquidation**, business reorganization, and restructuring for individuals, respectively. A lesser known provision, chapter 12, is exclusively available to **family farmers and fishermen**. This guide will walk readers through the process of declaring chapter 12 bankruptcy,

including what to consider, how to file chapter 12 bankruptcy, and some practical examples.

### Congress Amended Bankruptcy Code to Create Chapter 12

Chapter 12 arose out of necessity during the worst economic downturn the farm economy had seen since the Great Depression. In the late 1970s and 1980s, excessive debt, slumping commodity prices, and ill-advised government policies forced thousands of farmers into foreclosure, decimating the rural economy.

To combat this, Congress amended the **bankruptcy code** to include specific provisions tailored to the unique economic hardships farmers (and later fishermen) were facing. Chapter 12 was designed to provide a special type of reorganization restructuring opportunity that chapters 7, 11, and 13 could not.

### Chapter 12 Considered “Debt Adjustment”

Filing for reorganization under chapter 12 is far different than the headline-grabbing chapter 7 and 11 bankruptcies familiar to many people. Popular culture and celebrity news stories tend to focus on chapter 7, sometimes called personal bankruptcy, which requires a liquidation process where assets are repossessed or sold to satisfy the consumer’s debt. In comparison, chapter 12 can be considered a “debt adjustment.” Rather than selling off assets and foreclosing, chapter 12 allows individuals to keep their property and continue farming or fishing while sorting out their finances.



Most of the bankruptcies in the United States are filed under chapters 7, 11, and 13 which deal with liquidation, business reorganization, and restructuring for individuals, respectively. A lesser known provision, chapter 12, is exclusively available to family farmers and fishermen.



## CHAPTER 12 CAN BE CONSIDERED A “DEBT ADJUSTMENT.” RATHER THAN SELLING OFF ASSETS AND FORECLOSING, CHAPTER 12 ALLOWS INDIVIDUALS TO KEEP THEIR PROPERTY AND CONTINUE FARMING OR FISHING WHILE SORTING OUT THEIR FINANCES.

When Congress wrote this law, they understood that a farmer or fisherman’s income fluctuates during the year. Stopping all operations to declare bankruptcy could cause them to miss a season and the opportunity to earn income which could have been used to pay down debt. Chapter 12 allows individuals to continue earning a living while working with their creditors to restructure their debts into something more manageable. Chapter 12 reorganization is available to individuals qualifying as farm operators as well as business entities, including partnerships and corporations.

### Steps to Consider Before Bankruptcy

Before filing for bankruptcy of any kind, it is imperative to consider your other options. Bankruptcy is a long and arduous process, so you would be best served by taking the following steps first and using bankruptcy as a last resort.

#### Reassess your budget

If you are considering bankruptcy, you have probably reviewed your budget ten times. It is advisable to go over it for an eleventh time. Scour your budget for any expenses that you can cut. For example, get rid of cable TV, switch to a cheaper cell phone plan, and cancel any streaming services. Once you are down to the necessities (food, shelter, utilities, transportation, and tools critical for farming or fishing), start looking for ways to increase your monthly income. If possible, try to find a secondary source of income like a part-time job or a side business.

#### Sell assets

Consider selling assets of value, such as used farming or fishing equipment, stocks and bonds, and any household or personal items, and using the proceeds to pay down your debt. Have a garage sale, use a consignment service, or go to a pawn shop. There are even apps you can download to your mobile device for buying and selling used items locally.

#### Talk to your creditors

**Creditors** are the banks, businesses, and individuals to whom you owe the debt. Try talking to your creditors. They might be willing to work with you to restructure your payment plan or something similar. Keep in mind that many lenders are unaware of how the farming or fishing industries work on a day-to-day basis. For example, they may not know that the revenue stream from farming or fishing changes throughout the year, so be prepared to explain seasonal changes in income.

During these conversations, remember to be an advocate for yourself. As in other parts of life, you won’t get what you don’t ask for. **It is in a financial institution’s best interest to be flexible.** This is particularly true for credit card companies, because they have no recourse if you file for bankruptcy and **discharge** the debt. Many would rather get something than nothing.

#### Be wary of debt settlement companies

You can personally attempt to negotiate paying a smaller lump sum to settle with a creditor directly. Proceed with caution, however, before using a debt settlement company to advocate for you. Few, if any, debt settlement companies are familiar with farming and even less with chapter 12 issues. Debt settlement companies claim they will maximize your savings in negotiations with the creditor, for a fee. Remember that these companies make their money from the fees they charge you. Debt settlement companies do not guarantee any savings. In fact, many creditors refuse to work with them. Creditors usually have standard policies on how much debt they can forgive so oftentimes, **debt settlement companies cannot get better terms than you would have been able to negotiate for yourself.**

#### Consider credit counseling

One of your best options when contemplating bankruptcy is to attend **credit counseling**. Counselors are trained to

assess your financial situation, advise you on managing your money and debts, and help you develop a personalized plan for repayment. You can present this plan to creditors during your conversation with them. If your creditors agree to the plan and you follow through, you might be able to avoid bankruptcy.

Credit counselors may offer services over the phone, online, or in-person. Try to use an in-person service if possible. If the agency is reputable, it will likely send you free information about the services available without requiring any details about your situation. If the agency refuses to do so, consider finding another firm. Your local consumer protection agency can tell you if consumers have filed complaints about the agencies you are considering. You may feel disempowered due to your financial troubles, but it is important to vet your resources. Finding a good credit counselor is crucial to your success. Bad actors may have hidden fees, aggressive marketing strategies, and may encourage “donations” which could add to your debt.

The U.S. Department of Justice provides a list of approved credit counseling agencies available at [justice.gov/ust/list-credit-counseling-agencies-approved-pursuant-11-usc-111](https://justice.gov/ust/list-credit-counseling-agencies-approved-pursuant-11-usc-111). If your issues cannot be resolved even after working

with a credit counselor and developing a plan, do not worry that you have wasted your time; before filing for bankruptcy, a person is required to be briefed on credit counseling.

If none of the above worked or are not feasible at this time, then bankruptcy might be appropriate.

## Busting Common Bankruptcy Myths

### Myth: Creditors can take everything you own.

Many people associate bankruptcy with liquidation. Due to depictions in popular media, it may seem that the bank will take everything you own to satisfy the outstanding debts, leaving you with nothing. **This is not the case.** The goal of chapter 12 bankruptcy is to restructure the farm and make the debt manageable via a repayment plan. It makes sense when you think about this from the creditors’ point of view. They do not want your tractor or boat because they would rather have the payments you owe. It is in their best interest to work with you to allow payment of debts in a three- to five-year period. In addition, any **exemptions** you would have in chapter 7, 11 or 13 are available in chapter 12.

### Myth: This is a moral failing.

Despite the relief it can offer, bankruptcy is a stigmatized process. Events like layoffs, surprise medical bills, government shutdowns, and unexpected emergencies can burden even the most prepared individuals. Filing for bankruptcy does not mean you are or were a failure—it means that you have the strength and vision to use a tool so you can you regain control of your finances.

Financial stress can have a real impact on your mental and physical health. Make sure you reach out to people you trust, such as family, friends, religious or other trusted advisors, so you do not become isolated in this difficult time. Others in your community may also be struggling with financial issues, so being transparent about your journey may help someone else in need.

### Myth: Your financial future is ruined.

In the short term, your credit score will decrease and access to lines of credit will be limited or nonexistent. In the long term, however, bankruptcy will enable you to manage your debt, rebuild your credit, and ensure that you can continue to earn a living from your farm or fishing business.



One of your best options when contemplating bankruptcy is to attend credit counseling. Counselors are trained to assess your financial situation, advise you on managing your money and debts, and help you develop a personalized plan for repayment.



Filing for bankruptcy is one of the most serious financial decisions you will ever make and should not be taken lightly. Be sure to keep an open mind and consider all your options carefully and objectively with the advice of a qualified financial or legal adviser.

## Chapter 12 Eligibility

If you are in debt but unsure about the impact it is having on your farm or fishing operation, take a moment to estimate your business financial position. The following formulas can help approximate your company's ability to respond to an adverse event. Remember that each situation has its own complexities so specific questions should be directed to a finance professional such as a Certified Public Accountant or financial planner for assessment.

### Measuring long-term stability

First, calculate the overall **solvency** of your business using a **debt-to-asset ratio**. Solvency is the ability of a business to meet its financial obligations, service debts, and achieve long-term growth and profitability. A company becomes **insolvent** when their total debt exceeds the **equity** or value of their total assets.

To calculate this, divide your total debt (include short-term debts such as operating loans and long-term debts such as mortgages) by the total value of all your assets regardless of the debt's status as short term, long term, etc. (Short-term debt must be paid off within a year like accounts payable, whereas long-term debts are paid over several years like a mortgage).

Calculate the solvency ratio for your current situation and the previous four years because it is common for a seasonal business's solvency ratio to change from year to year. For the most accurate assessment and comparison between years, use the same point in the production cycle for each year, such as a balance sheet prepared on Dec. 31, or at the end of the season.

**Formula:** 
$$\frac{\text{Total Debt}}{\text{Total Assets}}$$

Use the chart below to determine the solvency of the business.

Ratio	Financial Position
<0.30	Strong and stable financial position.
0.50 - 0.75	Less secure financial position as business assets are funded more by debt than equity.
>0.75	Weak financial position with a high risk that an adverse event could tip the business to insolvency.

### Example: 150-acre corn and dairy farm

<b>Debts</b>	
Mortgage on dairy barn:	\$500,000
Balance on 5-year tractor loan:	\$250,000
<b>Total Debt:</b>	<b>\$750,000</b>
<b>Assets</b>	
Total value of 150 acres:	\$900,000
Harvested cord:	\$100,000
<b>Total Assets:</b>	<b>\$1,000,000</b>
<b>\$750,000 / \$1,000,000 = 0.75 debt to asset ratio</b>	
This hypothetical farm is in a weak financial position and must reduce total debt to reduce the risk of insolvency.	

### Measuring short-term liquidity

Next, calculate the **current ratio** to assess the working capital position of the farm or fishing operation so you can determine whether you have a buffer for meeting current obligations. This provides a snapshot of your business's financial position now and your ability to weather a near-term adverse event.

Current assets are important to a business because they are used to fund day-to-day operations and pay ongoing expenses. These include cash, accounts receivable, inventory, marketable securities, grain and market livestock in end-of-

year inventory, prepaid expenses, and other liquid assets readily converted into cash.

Current debts are bills due to creditors and suppliers within one year or less. Current liabilities include operating debt, accounts payable, accrued liabilities, and the current portion of deferred income taxes.

**Formula:** 
$$\frac{\text{Current Assets}}{\text{Current Debt}}$$

Use the chart below to determine the solvency of the business.

Ratio	Financial Position
>2.00	Excellent financial position
2.00 - 1.00	Average financial position
<1.00	Weak financial position

#### Example: Commercial blue crab fishing operation

<b>Debts</b>	
Fuel:	\$6,000
New replacement traps:	\$4,000
Loan to purchase bait and supplies:	\$50,000
<b>Total Debt:</b>	<b>\$60,000</b>
<b>Assets</b>	
Cash on hand:	\$40,000
Prepaid commercial crabbing license:	\$5,000
Daily catch of 1,800 pounds of crab:	\$5,000
<b>Total Assets:</b>	<b>\$50,000</b>
<b>\$50,000 / \$60,000 = 0.83 current ratio</b>	
This commercial fishing operation is in a weak financial position because it does not have a buffer to meet current obligations.	

If your farm or fishing operation's solvency ratio is greater than 0.75 and current ratio is less than 1, bankruptcy could be appropriate to reorganize the debt to mitigate some of the financial risk.

The following questionnaires can help you determine if you are eligible for chapter 12 bankruptcy under the law. This is only meant to assist you in exploring your financial options and should not be interpreted as a conclusive assessment of your eligibility. Consult an attorney, accountant, or financial adviser to evaluate your unique situation. For **individual** farmers/fishermen, see Checklist A. For farming/fishing **partnerships or corporations**, see Checklist B.

#### Checklist A: Individual farmers/fishermen

- | Yes                      | No                       |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Do you run a commercial farm/fishing operation as a sole proprietor?  |
| <input type="checkbox"/> | <input type="checkbox"/> | Is this business your source of regular annual income?  |
| <input type="checkbox"/> | <input type="checkbox"/> | Is more than 50% of your gross income generated from this business?   |
| <input type="checkbox"/> | <input type="checkbox"/> | Is your operation in debt?  |
| <input type="checkbox"/> | <input type="checkbox"/> | If you have a farm, is the total amount of debt less than \$10,000,000? If you have a commercial fishing operation, is the total amount of debt less than \$2,044,225?  |
| <input type="checkbox"/> | <input type="checkbox"/> | For farmers: Is more than 50% of your total debt farm related? For fishermen: Is more than 80% of total debt fishing related? Common eligible debts included: <ul style="list-style-type: none"> <li>• Short-term operating loans for business expenses and seasonal needs (financing to purchase seeds, fertilizer, feed, pesticides, bait, nets, etc.)</li> <li>• Intermediate-term loans for durable assets (financing for equipment and machinery, loans to purchase breeding stock or renovate farm buildings)</li> <li>• Long-term loans for purchasing real estate or making improvements (mortgage on a barn, financing to build a brand-new structure)</li> </ul> <b>*NOT eligible:</b> Loans used for personal (not business) purposes (home mortgages, auto loans for personal cars) |
| <input type="checkbox"/> | <input type="checkbox"/> | Have you NOT filed a bankruptcy case that was subsequently dismissed in the last six months?  |



### Checklist A: Individual farmers/fishermen (continued)

Yes No

- ☐ ☐ Have you received credit counseling from an approved credit counseling agency in the last 180 days?

If you answered "No" to any of these questions, you are almost always ineligible for chapter 12 but you may be able to file under a different chapter. If you answered "Yes" to all of the above, you are likely qualified to file for chapter 12 bankruptcy.



**PREVIOUSLY, MANY FARMERS STRUGGLED TO QUALIFY FOR CHAPTER 12 BECAUSE THEIR DEBTS EXCEEDED THE \$4.3 MILLION LIMIT. IN AUGUST 2019, CONGRESS PASSED THE FAMILY FARMER RELIEF ACT, WHICH RAISED THE DEBT LIMITS FOR FAMILY FARMERS FROM \$4.3 MILLION TO \$10 MILLION.**

### Checklist B: Partnerships and corporations

Yes No

- ☐ ☐ Is your commercial farm/fishing business operated as a partnership or corporation?
- ☐ ☐ Do you and your family own more than one-half of the outstanding stock or equity?
- ☐ ☐ Does the value of the company's farming/fishing-related business assets exceed 80%?
- ☐ ☐ Is your operation in debt?
- ☐ ☐ Is the total indebtedness of the farm less than \$10,000,000?
- OR
- Is the total indebtedness of the fishing corporation less than \$2,044,225?
- ☐ ☐ Of this debt, is at least 50% farm related or at least 80% fishing related?
- ☐ ☐ In the case of a corporation, is the stock privately held?
- ☐ ☐ Has the partnership or corporation NOT filed a bankruptcy case that was subsequently dismissed in the last six months?
- ☐ ☐ Have the business entity owners received credit counseling from an approved credit counseling agency in the last 180 days?

If you answered "Yes" to all the above, you are likely qualified to file for chapter 12 bankruptcy, but if you answered "No" to any of these questions, you are nearly always ineligible to file under chapter 12.

Previously, many farmers struggled to qualify for chapter 12 because their debts exceeded the \$4.3 million limit. In August 2019, Congress addressed this issue by passing the Family Farmer Relief Act, which raised the debt limits for family farmers from \$4.3 million to \$10 million. The Act did not increase the debt limit for family fishermen, so it remains at \$2,044,225. Nevertheless, heavily indebted farms and fishing businesses may still be eligible to file under chapter 11 to reorganize or use chapter 7 to liquidate as neither of these chapters impose debt limits.

# FEDERAL AND STATE LAWS PROVIDE EXEMPTIONS OR PROVISIONS THAT LEGALLY PROTECT YOUR PROPERTY EITHER COMPLETELY OR UP TO A CERTAIN DOLLAR AMOUNT FROM CREDITORS.

## How a Chapter 12 Bankruptcy Case Proceeds

### Entering the legal system

This may be your first foray into the American legal system, so do some research beforehand. It is *highly* recommended that you hire a lawyer specializing in bankruptcy law to guide you through the process. If you cannot afford legal counsel, see the Legal Resources section of this guide.

If you file for bankruptcy, be prepared for a long, slow, paperwork-heavy process. The legal system moves slowly, and your case will likely take longer than expected. It is reasonable to assume that the bankruptcy proceeding will take months rather than days or weeks.

### Preparing to file

To declare bankruptcy, you (and your spouse, if filing together) must receive a briefing about credit counseling from an approved agency within 180 days prior to filing. The court requires a certificate of completion to be included in the **bankruptcy petition** that you file with the court. Failure to complete counseling may result in dismissal of your case. For a list of approved providers, go to [justice.gov/ust/eo/bapcpa/ccde/cc\\_approved.htm](https://justice.gov/ust/eo/bapcpa/ccde/cc_approved.htm).

### Filling out the bankruptcy petition

A bankruptcy proceeding begins when a **debtor** files a series of forms with the court to open the case. Remember, even though you are the debtor in this case, this term is not who you are as a person. It's simply a legal distinction and you are taking proactive steps to improve your financial standing.

This set of forms asks for information about your financial situation and requests supporting documentation. If you retain a lawyer, they will review your records with you and assist in filling in the paperwork. If you choose to complete the paperwork yourself, keep in mind that court personnel (clerk, secretary, etc.) cannot help you or give legal advice. See the Bankruptcy Forms section of this guide for a more detailed explanation of the filing process and the corresponding forms. It is difficult to handle a chapter 12 case by yourself and it is particularly difficult to successfully confirm an optimal plan without legal assistance.

Federal and state laws provide exemptions or provisions that legally protect your property either completely or up to a certain dollar amount from creditors. **Property exemptions** may only be used by individuals. Business entities are ineligible.



To declare bankruptcy, you (and your spouse, if filing together) must receive a briefing about credit counseling from an approved agency within 180 days prior to filing.



## MARYLAND EXEMPTIONS

Maryland is an “opt out” state, which means you cannot use federal bankruptcy exemptions and must use the state’s specific rules. Under Maryland law, you can only protect certain types of property which are limited to:

<b>Homestead</b>	Up to <b>\$23,675</b> of equity in any owner-occupied real estate (house, condominium, co-op, or permanently affixed manufactured home)
<b>Insurance and other benefits</b>	<b>Completely protected:</b> <ul style="list-style-type: none"> <li>• Proceeds from life insurance or annuities</li> <li>• Unemployment benefits</li> <li>• Workers’ compensation</li> <li>• Public welfare benefits</li> <li>• Money awarded in a lawsuit (also called damages)</li> <li>• Fraternal benefit society benefits</li> </ul>
<b>Pensions</b>	<b>Completely protected:</b> <ul style="list-style-type: none"> <li>• Tax <b>exempt</b> retirement accounts (401(k)s, 403(b)s, profit sharing and money purchase plans, SEP, SIMPLE IRAs, IRAs, and Roth IRAs)</li> <li>• ERISA-qualified benefits, including IRAs, Roth IRAs, Keoghs</li> <li>• State employee pensions</li> </ul>
<b>Personal property</b>	<p>Up to <b>\$1,000</b> worth of household furnishings, household goods, clothes, appliances, books, pets, and other personal items</p> <p><b>NOT including the following which are completely protected - complete exclusion of:</b></p> <ul style="list-style-type: none"> <li>• Prescribed health aids</li> <li>• Payments due to sickness, accident, injury, or death</li> <li>• Burial plot or crypt</li> <li>• Prepaid college trust funds</li> </ul>
<b>Tools of the trade</b>	Up to <b>\$5,000</b> worth of clothes, books, tools, instruments, or appliances needed for work
<b>Wildcard</b>	Up to <b>\$5,000</b> any personal property (except real estate) AND up to <b>\$6,000</b> worth of cash or any property
	<p><b>NOTE:</b> Maryland does not have a specific motor vehicle exclusion, but the wildcard category can be used to exempt a car, if needed. For many motor vehicles, the debt exceeds the value and a debtor only need exempt \$1.00 if at all.</p> <p>*This document contains a majority of the exemptions available in Maryland but consult the <b>Maryland Code Annotated</b> for the most current listing.</p>

## DELAWARE EXEMPTIONS

Delaware is an “opt out” state, which means you cannot use federal bankruptcy exemptions and must use the state’s specific rules. Under Delaware law, you can only protect certain types of property which are limited to:

<b>Educational savings plans</b>	Up to <b>\$5,000</b> or the average of previous two years’ contributions to Delaware college investment plan accounts or Delaware ABLÉ accounts
<b>Homestead or residential property</b>	Up to <b>\$125,000</b> of equity in real property or a manufactured home used as a principal residence
<b>Insurance benefits</b>	<b>Completely protected:</b> <ul style="list-style-type: none"><li>• Life insurance proceeds</li><li>• Health or disability benefits</li><li>• Group life insurance policy or proceeds</li><li>• Annuity contract proceeds up to \$350 per month</li><li>• Fraternal benefit society benefits</li></ul>
<b>Motor vehicle</b>	Up to <b>\$15,000</b> of equity in a motor vehicle, if necessary for employment
<b>Pensions</b>	<b>Completely protected</b> <ul style="list-style-type: none"><li>• Tax-exempt retirement accounts (401(k)s, 403(b)s, profit-sharing, and money purchase plans, SEP and SIMPLE IRAs)</li><li>• IRAs, Roth IRAs, inherited IRAs</li><li>• Pension proceeds for police officers, state employees, volunteer firefighters</li></ul>
<b>Personal property</b>	<b>Completely protected</b> <ul style="list-style-type: none"><li>• Principle and interest income from spendthrift trusts</li><li>• Clothing, jewelry, books, family pictures, piano; leased organs; sewing machines; burial plot; church pew or any seat in public place of worship</li></ul>
<b>Public benefits</b>	<b>Completely protected</b> <ul style="list-style-type: none"><li>• Proceeds paid out for unemployment benefits or workers’ compensation</li><li>• General government assistance (Medicare, Medicaid, other welfare programs)</li><li>• Crime victims’ compensation</li><li>• Fireman’s Disability Benefit</li></ul>
<b>Tools of the trade</b>	Tools needed for work or for business can be protected up to: <ul style="list-style-type: none"><li>• New Castle and Sussex Counties: <b>\$75</b></li><li>• Kent County: <b>\$50</b></li><li>• All other counties: <b>\$5,000</b></li></ul>



## DELAWARE EXEMPTIONS (continued)

<b>Wages</b>	Up to <b>85%</b> of earned but unpaid wages
<b>Wildcard</b>	An additional <b>\$500</b> worth of any other personal property, except tools of the trade
	<p><b>NOTE:</b> A married couple filing together can each claim the exemption if both have an ownership interest in the property which effectively “doubles up” the benefit of the exemption.</p> <p><b>Ex.</b> Both husband and wife can each exempt \$15,000 of motor vehicle equity for a total exemption of \$30,000.</p> <p>*This document contains most of the exemptions available in Delaware but consult <b><u>The Delaware Code</u></b> for the most current listings.</p>

### Working with the trustee and the automatic stay

When a chapter 12 petition is submitted, all property becomes part of the **bankruptcy estate**. The estate is now the temporary legal owner of those assets throughout the proceeding and is managed by an impartial **trustee**. Since chapter 12 is tailored to the specific needs of farmers and fishermen, however, you can continue operating your business while the bankruptcy case proceeds.

Shortly after filing, a trustee will be appointed to administer your case and act as an intermediary between you, the court, and the creditors. The trustee’s first responsibility is to inform all creditors of the bankruptcy filing and the **automatic stay**. As soon as debt collectors receive this notice, it is illegal for them to continue any collection activities against you or any co-debtors. This includes collection calls, lawsuits, or wage garnishments. For many facing debt, this is a welcome reprieve. A creditor may try to get around this by filing a **motion to lift the automatic stay**. Lifting the automatic stay requires court approval and is rarely granted for any unsecured creditor; it is difficult for even a secured creditor to win such a motion in chapter 12.

### Attending the 341 hearing

Within three to five weeks after filing, you will be required to appear at a **341 hearing**, also known as the “meeting of creditors.” The trustee of the bankruptcy estate, rather than a

bankruptcy judge, will conduct the conference. Some of your creditors may be present but usually creditors elect not to attend. During the meeting, the trustee will ask you a series of questions about your bankruptcy petition, financial affairs, and proposed repayment plan. If you come to the hearing with all your paperwork in order and a draft of a proposal ready, the meeting will likely last no more than 20 minutes.

### Developing the repayment plan

After a 341 hearing, you have 90 days to file the repayment plan. If you need an extension, you must ask for one from the court. A typical plan lays out a schedule of fixed payments to be made over a period of three to five years. The trustee will distribute the payments to creditors.

While developing your repayment plan, remember that the goal is to reduce the amounts you owe and to restructure payments to be more manageable, not to get rid of all your debt. This may be accomplished through spreading payments over a longer time or settling to pay a portion of a loan. In addition, only farm- or fishing-related business debt creates eligibility for chapter 12 bankruptcy, not **consumer debt**. Consumer debt is any non-business loans, credit cards, auto loans for personal vehicles, and home mortgages.

Bankruptcy law creates a ranking system to determine which of your debts must be paid and in what order. There are two types of **claims**: unsecured and secured.



Perhaps the most beneficial aspect of a chapter 12 bankruptcy is the option to “cram down” secured debt to reduce the obligation to the value of the collateral securing it.

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**Unsecured claims** are debts not backed up by collateral, so creditors have no special right to seize any of the debtor’s assets to satisfy it. This type of claim is further classified as either **priority** or nonpriority.

*Priority* claims are unsecured debts that receive special treatment in bankruptcy. Common priority claims include most taxes, domestic support obligations (alimony, child support), money you must pay as a result of a legal judgment (i.e. paying restitution to someone you injured) and bankruptcy proceeding costs. These claims must be paid first and continued failure to pay these can result in fines, wage garnishment and even legal action. Priority claims cannot be discharged. This means your repayment plan must include a payment schedule for these debts.

*Nonpriority* unsecured claims do not have to be paid in full if you commit all your projected disposable income to other plan payments and the creditor gets at least as much as they would have if your nonexempt assets were liquidated. The remainder can be discharged.

\* Federal student loans are classified as non-priority but until recently, this type of debt was considered almost always non-dischargeable. In early 2020, bankruptcy courts allowed several debtors to reduce or even completely discharge their student loan debt which may indicate that judges are ready to rethink how this type of debt is treated. But one servicer has appealed a recent ruling so a definitive answer is likely years away.

A **secured claim** is debt guaranteed by property, so if the borrower defaults the creditor has the right to repossess the property to satisfy the debt. The most common types of secured debts are mortgages and auto loans. Essentially, the lender maintains an ownership interest (**lien**) on the house or car that the borrower has put forth as collateral. If the borrower fails to make payments, the creditor can foreclose or repossess.

Payments on secured debts can sometimes continue for longer than the repayment schedule if the debt was scheduled to be paid over more than five years. This is often the case for equipment loans or mortgages on business properties. You may be able to continue that repayment schedule as long as you make up any part of the debt that is overdue after missing one or more required payments, also known as **arrears**.

Perhaps the most beneficial aspect of a chapter 12 bankruptcy is the option to “cram down” secured debt to reduce the obligation to the value of the collateral securing it. For example, a farmer borrowed \$400,000 to purchase a tractor. Much like an auto loan, the tractor serves as collateral for the loan. The tractor has depreciated in value to \$250,000. If the farmer were to file a chapter 12 bankruptcy, the secured debt on the tractor would be reduced to \$250,000 while the remaining \$150,000 would be converted to unsecured debt. Repayment would still be required but the farmer would now only be obligated to make payments on the reduced debt of \$250,000. The now-unsecured debt would be eligible for the more generous discharge and is only paid pro rata to the extent of your disposable income.



Once you classify your debt, you will develop the debt repayment plan. The following is a simplified list of the components the bankruptcy code requires in a plan:

1. Show how you will dedicate and submit all or a specified portion of your future projected income to the trustee as needed to repay the debt.
2. Lay out how all priority claims will be satisfied. As discussed above, this is the type of claim that must be paid in full, or a lesser amount, if you agree to dedicate all your disposable income for the next five years toward repayment.
3. Propose a plan for satisfying all other debts. These claims can be categorized by type (secured, priority unsecured, etc.). If your plan creates categories of claims, creditors in each category must be treated equally.
4. Compensate the trustee for administering the case and pay any other court fees.

Repayment plans are often extensive and complex, so you should consult a bankruptcy attorney and/or a financial professional. Keep this document as a reference for yourself. You can take it to a meeting with your attorney or use it beforehand to prepare questions during your meeting with an attorney. Even though you are meeting with an expert, you can make suggestions and ask questions. Remember, you are advocating for yourself during these conversations. Be honest about how much you can realistically commit to repayment.

### **Attending the confirmation hearing**

Within 45 days after filing the proposed repayment plan, you must attend a scheduled **confirmation hearing**. At this hearing, the bankruptcy judge decides if your repayment plan is feasible and meets required legal standards. The 45-day period can be extended for cause if needed. After the repayment plan is submitted, your creditors will get 21 days' notice of the filing and may attend the hearing. Sometimes they will appear to argue that the proposed plan is insufficient or that all your disposable income has not been committed to repayment.

Hiring an attorney is a smart strategy because they will advocate for you and know how to answer difficult questions. When evaluating your plan, the judge will consider whether your creditors are being treated fairly and will ensure that each creditor receives payment equivalent to the sum they would have received in a chapter 7 case.

If the repayment plan is approved, you will begin making payments to the trustee who will distribute the funds to the creditors in accordance with the plan.

If the court rejects your plan, one of three things may happen:

1. You file a modified plan;
2. You convert your case to a liquidation under chapter 7; or
3. Your case is dismissed, and the court may authorize the trustee to keep some of the funds for costs; otherwise they must return all the remaining funds to you.

Of course, the best laid plans can go awry. If you have trouble making payments under an approved plan, or you realize later you failed to list all your creditors, the plan may be modified before or after confirmation. Modification after confirmation can be initiated at the request of any of the parties including the trustee or an unsecured creditor.

### **Discharging the debts**

After three to five years of working hard, making the right choices, and sticking with your repayment plan, all unsecured debts will be satisfied. That means the remaining unsecured debt can be discharged. You will no longer be liable for any remaining unsecured balance and your creditors may no longer initiate or continue legal action against you.

Keep in mind that some debts cannot be discharged under chapter 12. Those include debts for domestic obligations; money received from false financial statements; debts to pay damages from lawsuits (personal injury, drunk driving, stealing, fraud); student loans; etc. In addition, any secured debts to be paid beyond the end of the payment plan are not discharged.

**KEEP IN MIND THAT SOME DEBTS CANNOT BE DISCHARGED UNDER CHAPTER 12, INCLUDING DEBTS FOR DOMESTIC OBLIGATIONS; MONEY RECEIVED FROM FALSE FINANCIAL STATEMENTS; DEBTS TO PAY DAMAGES FROM LAWSUIT; OR STUDENT LOANS.**

If you are unable to continue making payments due to circumstances beyond your control, the court may grant a hardship discharge. Even under a hardship discharge, your creditors must have received at least as much as they would have received under a chapter 7 liquidation case and you can show that modifying the plan is not feasible. For example, if you are unable to work due to an injury or illness and cannot make payments even under a modified plan, you may be eligible for hardship discharge. Again, any debts that are non-dischargeable will not be covered and you will still be liable for their repayment.

## Bankruptcy Forms

To declare bankruptcy under chapter 12, you must file a petition accompanied by the following **schedules** as applied to your situation. Knowing what these forms are and gathering the required information ahead of time will make your lawyer's job easier. Since most attorneys charge by the hour, doing your homework allows them to work quickly and efficiently which saves you money.

Descriptions of the following forms contain direct links to the respective documents provided by the U.S. Courts. If more space is needed, attach a separate sheet to the form. On the top of any additional pages, write your name and case number (if known). Also identify the form and line number to which the additional information applies. If you need additional forms not listed, all bankruptcy related forms can be found at: [uscourts.gov/forms/bankruptcy-forms](https://uscourts.gov/forms/bankruptcy-forms).



## Petition

**Voluntary Petition for Individuals Filing for Bankruptcy (Official Form 101)** opens the case. When filling out this form, it will be useful to have papers regarding your income, monthly expenses, assets and debts on hand to reference. If you and your spouse are filing for bankruptcy together, indicate on the form that it is a **joint petition**.

## Social Security Number

**Statement About Your Social Security Numbers (Official Form 121)** gives the court your full Social Security number or federal Individual Taxpayer Identification number.

## Filing Fee

The fee must be paid to the court clerk upon filing. In Maryland, the court charges two fees: a \$200 per case filing fee and a \$75 miscellaneous administrative fee. The court accepts cash, money orders, and cashier's checks but no personal checks or credit cards.

In Delaware, the court charges a \$275 fee for filing and administration. The court accepts cash, money orders, and cashier's checks but no personal checks or credit cards. If paying in cash, exact change is required.

If you cannot pay the entire filing fee, you can request payment through an installment plan using **Application for Individuals to Pay the Filing Fee in Installments (Official Form 103A)**<sup>5</sup>. Both Maryland and Delaware allow the fee to be split into four payments of \$68.75 each.

## Creditor Mailing Matrix

This is a list of names and addresses of all your creditors. The list must be formatted as a mailing list in accordance with the **Maryland Bankruptcy court instructions** or **Delaware Bankruptcy court instructions**.

## Credit Counseling Certificate

You must include the certificate to prove that in the last 180 days, you received a brief about credit counseling from an approved credit counseling agency.

## **Petition Preparer**

Include the **Bankruptcy Petition Preparer's Notice, Declaration, and Signature (Official Form 119)** and the **Disclosure of Compensation of Bankruptcy Petition Preparer (Official Form 2800)** only if a bankruptcy petition preparer typed your forms.

## **Real Estate and Property**

**Schedule A/B: Property (Official Form 106A/B)** requires you to inventory all the property you own including real estate, farm equipment, vehicles (cars, ATVs, boats, motorcycles) personal and household items, money, investments, retirement accounts, trusts, insurance policies, etc. You must also include all property related to your farm or fishing operation (livestock, crops, fishing supplies, etc.) Basically, if you own it or have rights to it, you need to include it.

When assessing the value of property, you can make reasonable estimates. For vehicles, use the Blue Book value and for personal property, assign "yard sale" or "pawn shop" values to everything. Essentially, appraise items based on the value of what they would sell for at a thrift store, garage sale, or how much a pawn shop would pay.

**Schedule C: The Property You Claim as Exempt (Official Form 106C)** asks you to specify what property you included on the Schedule A/B form should be exempt. If something is considered "exempt," it means that the trustee cannot liquidate it and you are allowed to keep it so long as the fair market value does not exceed the statutory limits. See earlier in this guide for a list of property exemptions for Maryland and Delaware.

## **Claims and Debts**

**Creditors Who Have Claims Secured by Your Property (Official Form 106D)** requires you to list all the creditors who have loans that are backed by property you provided as collateral. These include mortgages and auto loans.

**Creditors Who Have Unsecured Claims (Official Form 106E/F)** asks for a list of all remaining debtors. Unsecured debts are loans which do not require collateral and are not backed by an underlying asset the creditor can repossess. These can include taxes, credit card debt, and utility bills. Form 106E/F divides unsecured claims into two categories:

priority and non-priority. Priority debts must be paid back in full and include most taxes and all domestic support obligations. These get special treatment and must be paid before non-priority claims because they are not eligible for discharge. Non-priority debts include personal and consumer related debts, such as medical bills and credit card debt.

**Executory Contracts and Unexpired Leases (Official Form 106G)** requests records of any agreements you have entered with third parties. An **executory contract** is a deal between you (borrower) and another party (creditor) to do certain things at a later date. A rental lease is a form of an executory contract: a tenant is required to pay the landlord rent in the future and the landlord is required to provide a living space in the future. Other examples include car or equipment leases and development contracts.

**Your Codebtors (Official Form 106H)** asks you to disclose anyone who co-signed a loan with you. Usually a person with good credit will vouch for someone with bad credit or no credit history to make a bank more willing to lend to the high-risk borrower. The only catch is that the other person is now on the hook for the entire loan amount as if they had signed for it individually. The automatic stay will protect them from collection activities by creditors as well.

**Your Income (Official Form 106I)** requires you to list ALL your sources of income so the court can determine how much you might be able to pay on your debts. For most people, income information can be pulled from pay stubs, tax returns, and W-2 statements. If you have any additional income from bank account interest, stock dividends, alimony, etc., be sure to provide statements or other records showing this income. Do not low-ball your total income in an effort to reduce payments or have more debts be eligible for discharge.

**Your Expenses (Official Form 106J)** asks you to estimate your monthly expenses. These would include housing expenses, utilities, food, costs incurred from taking care of dependents, insurance, transportation -- essentially anything you pay for in a given month should be included.

**Summary of Your Assets and Liabilities and Certain Statistical Information (Official Form 106Sum)** asks for a condensed version of the information you provided on the preceding forms, but this is not required if you are filing under chapter 12.

**Declaration About an Individual Debtor's Schedules (Official Form 106Dec)** is where you swear that the



information you have provided is accurate to the best of your knowledge. There are fines and jail penalties for giving false information.

**Statement of Financial Affairs for Individuals Filing for Bankruptcy (Official Form 107)** requires you to provide the sources of your income, any debts payments made before filing, any legal actions (foreclosure, repossession, etc.), gifts, losses, transfers, financial accounts, and details about your business. It is a lengthy document, but you already have most of the information and the form itself is not complex.

## Court Locations

Find out which court you must file your bankruptcy case in.

### Maryland

#### Baltimore Division

Garmatz Federal Courthouse  
101 West Lombard Street Suite 8530  
Baltimore, MD 21201  
(410) 962-2688

#### Greenbelt Division

Federal Courthouse  
6500 Cherrywood Lane Suite 300  
Greenbelt, MD 20770  
(301) 344-8018

[mdb.uscourts.gov](http://mdb.uscourts.gov)

### Delaware

#### District of Delaware

824 North Market Street 3rd Floor  
Wilmington, DE 19801  
(302) 252-2900

[deb.uscourts.gov](http://deb.uscourts.gov)

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Farming/fishing is hard, and life can throw you curves. Resources are available to help in difficult financial situations and to address mental health concerns. If you or someone you know is struggling or in crisis, please seek help immediately.

**National Suicide Prevention Lifeline: (800) 273-8255**

**Farm Crisis Resource Center:**

[farmcrisis.nfu.org/resource-center/#stateresources](http://farmcrisis.nfu.org/resource-center/#stateresources)

## Legal Resources

Although the law allows you to represent yourself, you are strongly encouraged to hire a qualified attorney to assist and represent you in your bankruptcy case. If you file without an attorney, you are still responsible for knowing and following all legal requirements. It is extremely difficult to succeed in a chapter 12 case without a lawyer due to the complexity of the process.

While it may seem counterintuitive to hire legal counsel when you are already overwhelmed by debt, it is a good investment. Working with a lawyer specializing in bankruptcy cases will ensure the best outcome and may save you money in the long run.

**If you cannot afford an attorney, you may qualify for legal aid programs and resources in Maryland:**

**The Maryland Debtor Assistance Project (DAP)** is a legal clinic which is a partnership between the U.S. Bankruptcy Court for the District of Maryland and various members of the Maryland legal community. This program provides debtors with an opportunity to meet, one-on-one, with a volunteer bankruptcy attorney for a free half-hour consultation. The DAP provides legal advice to individuals without an attorney by answering their questions about bankruptcy, including how bankruptcy may be used to help prevent foreclosure. The DAP cannot provide an attorney to complete your paperwork for you or represent you. For more information, visit:

[mdb.uscourts.gov/content/debtor-assistance-project](http://mdb.uscourts.gov/content/debtor-assistance-project)

**ALTHOUGH THE LAW ALLOWS YOU TO REPRESENT YOURSELF, YOU ARE STRONGLY ENCOURAGED TO HIRE A QUALIFIED ATTORNEY TO ASSIST AND REPRESENT YOU IN YOUR BANKRUPTCY CASE.**

**Maryland Legal Aid** is a private, non-profit law firm providing free legal services to low-income individuals: [mdlab.org](http://mdlab.org)

**The Maryland Volunteer Lawyers Service** is a referral service for pro bono legal assistance: [mvlslaw.org/get-legal-help/apply-for-services](http://mvlslaw.org/get-legal-help/apply-for-services)

**Civil Justice, Inc.** is a lawyer referral service for those in Maryland who do not qualify for free legal help. The program may be able to help you find a lawyer for a reduced fee: [civiljusticenetwork.org](http://civiljusticenetwork.org)

**MSBA Agriculture Law Section** provides resources and legal support from Maryland lawyers who specialize in agricultural law; you will need to accept the terms of service, and select “agriculture law” in the practice area field to narrow the list: [msba.org/about/member-directory](http://msba.org/about/member-directory)

**If you cannot afford an attorney, you may qualify for legal aid programs and resources in Delaware:**

**Legal Services Corporation of Delaware** is a private, non-profit law firm helping low-income families in Delaware. Services are free to those who qualify: [lscd.com](http://lscd.com)

**Delaware Volunteer Legal Services** provides free legal services to those who qualify: [dvls.org](http://dvls.org)

**Delaware Legal Help Link** is a database and directory to help find affordable legal services: [delegalhelplink.org](http://delegalhelplink.org)

**Additional national resources:**

**The Legal Services Corporation** is an independent nonprofit established by Congress in 1974 to provide financial support for civil legal aid to low-income Americans: [lsc.gov](http://lsc.gov)

**American Board of Certification** provides referrals to attorneys specializing in bankruptcy and/or creditors’ rights law: [abcworld.org](http://abcworld.org)



## Practical Examples

### Case Study 1: The Cash Cow Runs Dry

Liam (45) and Emma (41) are a married couple with two children. They own a 100-acre dairy farm in Maryland where Liam grew up which they purchased from Liam's father 10 years ago with a 30-year mortgage that Liam's father financed and recorded. They also purchased the 100-head milking herd and replacements. They rent an adjacent 110 acres. They grow corn, legumes, and small grains for forage. Liam and Emma employ one full-time milker and occasional seasonal labor. In the beginning years after purchasing the farm, things were good and with all of Liam and Emma's hard work, the farm turned modest profits.

When milk prices were high five years ago, Liam and Emma used the opportunity to rebuild the dairy facilities and update machinery. They took out a 10-year loan on the farm to finance the facilities of which \$350,000 remains. They took out a 7-year machinery loan of which \$140,000 remains.

The dairy has fallen on hard times. Milk prices have been below cost of production for the last four years. Liam and Emma have tried to cut down on overhead expenses anywhere they could, but it has not been enough to overcome the imbalance. The weather has further complicated matters. A local drought last year decimated yields which decreased the amount of forages normally grown. Unfortunately, they canceled their crop insurance to save money and the farm was forced to bring in off-farm forages. Over these four years, they accrued \$330,000 in operating loans, an \$80,000 feed bill, and \$45,000 in credit card debt. This year, growing 150 acres of crops will cost \$100,000 for seed, fertilizer, pesticides, fuel, labor, and machinery repair costs which Liam and Emma have financed through an additional operating loan.

Their oldest child is a sophomore in college and even though Liam and Emma are thrilled that their daughter attends an Ivy League school, they are struggling to afford the tuition. After two years, their daughter has \$60,000 worth of federal student loans and Liam and Emma have taken out \$40,000 in Parents PLUS loans to cover the remainder. They have an auto loan on a personal vehicle with a balance of \$15,000. In trying to sort out their finances, Liam and Emma drafted the balance sheet to the right:

#### Assets

Livestock - \$140,000  
Machinery & equipment - \$350,000  
Dairy equipment - \$200,000  
Land and buildings - \$1,000,000

#### Liabilities

Credit card balance - \$45,000  
Feed bill balance - \$80,000  
Auto loan balance - \$15,000  
Previous operating loan balance - \$330,000  
New operating loan balance - \$100,000  
Machinery loan balance - \$140,000  
Father's mortgage balance - \$610,000  
Second mortgage for facilities - \$350,000  
Parent PLUS loan - \$40,000

**Based on the facts above, try to answer the following questions:**

*Which of Liam and Emma's debts would be eligible for chapter 12 bankruptcy?*

*What would each debt be classified as, secured or unsecured? Priority or nonpriority?*



## Case Study 2: The Blue Crab Blues

Brothers Richard and Arthur Moby run a commercial fishing operation harvesting blue crabs in the Chesapeake Bay. In 1987, they formed a partnership to create the Blue Company (BC). Each brother purchased a full Tidal Fishing License (TFL) with a 300-pot endorsement and paid an additional fee to increase the limit to 600 pots each. This cost \$2,000 and has a subsequent \$600 annual license renewal fee.

Soon after, the state of Maryland capped the number of TFLs available for each season, so a market emerged for the buying and selling of permits amongst fishermen. Today the permits are valued at approximately \$20,000. Before the start of the first season, the brothers purchased a 1985 40' deadrise boat for \$150,000 using a bank loan. After making several years of payments, they finally paid off the "Blue" so the brothers own the boat free of any encumbrances. But they had put off needed maintenance for years so the boat has depreciated to \$25,000.

In 2013, the Blue was over 25 years old and the major repairs could not be put off any longer. BC purchased an additional deadrise boat (the Azul). Richard and Arthur signed a business loan for \$500,000 to cover the cost of the new vessel and much needed repairs on the Blue. Both boats were put up as collateral for the loan and they have paid down \$50,000 so far.

The business, which began as a two-man operation, expanded significantly over the years. In 2014, BC hired an additional fisherman earning a \$50,000 salary. The brothers remained an integral part of the operation which saved the business money by not having to hire additional workers. Over the course of a season, BC's operating costs would include \$3,090 for fuel, \$15,000 boat insurance premiums, \$30,000 general boat maintenance, and \$10,000 for bait and trap maintenance. BC typically harvested 10,166 bushels of crab per season which sell for around \$1.32 million

### Based on these facts try to answer the following:

*What are BC's assets? Debts?*

*How would you rate BC's financial position? Are there any changes they could make to improve their financial health?*

In 2015, Richard suffered a massive stroke leaving him partially paralyzed and unable to continue crabbing. He did not have health insurance, so he is responsible for the full cost of his medical bills which have reached \$300,000. Richard and Arthur were forced to stretch BC's budget to hire a replacement (with \$50,000 salary) even though the business was already operating with tight margins. To make matters worse, the blue crab population in the Chesapeake Bay has declined and in 2016, BC only harvested 6,500 bushels to earn \$650,000. BC was forced to take out additional lines of business credit to finance the operating costs for subsequent seasons to the tune of \$200,000. Last year, the engine on the Azul broke down which required \$50,000 worth of repairs.

*How would you rate BC's financial position now?*

*What strategies can Richard and Arthur use to manage their debt?*

*Is chapter 12 bankruptcy an option for BC? Are there any steps the brothers might consider first?*

*If they do decide to file, what would their first steps be?*

## **Glossary**

### **341 Meeting**

A meeting of creditors at which the debtor is questioned under oath by creditors, a trustee, examiner, or the U.S. trustee about his/her financial affairs.

### **Arrears**

The amount of money a debtor is behind on their mortgage prior to filing bankruptcy.

### **Automatic stay**

An injunction that immediately stops lawsuits, foreclosure, garnishments, and all collection activity, including phone calls. Any codebtors or cosigners are also protected. Once the stay is in place, it is illegal for creditors to harass the debtor or demand payment.

### **Bankruptcy**

A legal procedure for dealing with debt problems of individuals and businesses; specifically, a case filed under one of the chapters of title 11 of the U.S. Code (the Bankruptcy Code).

### **Bankruptcy Code**

The informal name for title 11 of the U.S. Code (11 U.S.C. § 101-1330), the federal bankruptcy law.

### **Bankruptcy estate**

All interests a debtor has in property, both real and personal, at the time of the bankruptcy filing. (The estate includes all property in which the debtor has an interest, even if it is owned or held by another person.)

### **Bankruptcy petition**

A formal request for the protection of the federal bankruptcy laws.

### **Bankruptcy Trustee**

A private individual or corporation appointed in all chapter 7, chapter 12, and chapter 13 cases to represent the interests of the bankruptcy estate and the debtor's creditors.

### **Claim**

A creditor's right to payment from the debtor.

### **Confirmation**

Bankruptcy judge's approval of a reorganization or repayment plan.

### **Consumer debt**

Debts incurred for personal, as opposed to business, needs.

### **Creditor**

A person or business to which the debtor owes money or claims to be owed money by the debtor.

### **Credit counseling**

An individual or group briefing from a nonprofit budget and credit counseling agency that individual debtors must attend prior to filing under any chapter under the Bankruptcy Code.

### **Current ratio**

A liquidity ratio measuring a company's ability to pay short-term obligations, or those due within one year.

### **Debtor**

A person who has filed a petition for relief under the bankruptcy laws.

### **Debt-to-asset ratio**

The total amount of a company's liabilities divided by the total amount of the company's assets.

### **Discharge**

A release of a debtor from personal liability for certain dischargeable debts which prevents the creditors from taking any action against the debtor or the debtor's property to collect the debts.

### **Equity**

The value of a debtor's interest in property which remains after liens and other creditors' interests are considered.

### **Executory contract**

Contracts or leases under which both parties to the agreement have duties remaining to be performed.

### **Exempt**

Property that a debtor may prevent creditors from recovering.

### **Exemption**

Property that the Bankruptcy Code or applicable state law permits a debtor to keep from creditors.

### **Family farmer or family fisherman**

An individual, individual and spouse, corporation, or partnership engaged in farming or fishing operation which meets certain debt limits and other statutory criteria for filing a petition under chapter 12.

**Insolvency**

Inability to repay one's debts.

**Joint petition**

One bankruptcy petition filed by a married couple together.

**Lien**

A charge upon specific property designed to secure payment of a debt or performance of an obligation.

**Liquidation**

A sale of a debtor's property with the proceeds to be used for the benefit of creditors.

**Motion to lift automatic stay**

A request by a creditor to allow the creditor to take an action against a debtor or the debtor's property that would otherwise be prohibited by the automatic stay.

**Non-dischargeable debt**

A debt that cannot be eliminated in bankruptcy.

**Priority**

The Bankruptcy Code's statutory ranking of unsecured claims determining the order in which unsecured claims will be paid if there is not enough money to pay all unsecured claims in full.

**Schedules**

List submitted by the debtor along with the petition (or shortly thereafter) showing the debtor's assets, liabilities, and other financial information. (There are official forms a debtor must use.)

**Secured claim**

Debt backed by a mortgage, pledge of collateral, or other lien; debt for which the creditor has the right to pursue specific pledged property upon default.

**Solvency**

The ability of a business to meet its financial obligations, service debts, and achieve long-term growth and profitability.

**Petition preparer**

A business or individual not authorized to practice law which prepares bankruptcy petitions.

**Unsecured claim**

A claim or debt for which a creditor holds no special assurance or payment, such as a mortgage or lien; a debt for which credit was extended based solely upon the creditor's assessment of the debtor's future ability to pay.

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University programs, activities, and facilities are available to all without regard to race, color, sex, gender identity or expression, sexual orientation, marital status, age, national origin, political affiliation, physical or mental disability, religion, protected veteran status, genetic information, personal appearance, or any other legally protected class.