

Chapter 7

Chapter 7, commonly known as “liquidation” is available for New Jersey debtors who have resided or have been domiciled in the District of New Jersey for at least 180 days. Chapter 7 is available for “persons”, a term that includes both people and entities as long as those entities do not fall within a specific category (e.g. an insurance company, bank etc.).

Debtors often file a Chapter 7 to obtain relief from a levy against their wages, collection activities by creditors and certain lawsuits. At Nash Law Firm, we perform an analysis with each of our clients to determine which bankruptcy chapter is most beneficial. For instance, a client who owns a house containing equity that is greater than the available exemptions would not be a candidate for Chapter 7 if one of the goals is to retain such real estate. On the other hand, a client who is “upside down” in their house might find that a Chapter 7 Bankruptcy filing might be an effective way of walking away from such a financially bad situation. Some of the other issues we evaluate include the effect of filing a Chapter 7 Bankruptcy on a car loan or lease. And, if you are not a homeowner but rent and are facing eviction, we will inform you about the consequences of filing a Chapter 7 Bankruptcy petition and other options which may be better for you.

At Nash Law Firm, we also perform a “means test” analysis to determine whether a client qualifies for filing under Chapter 7 of the Bankruptcy Code. Simply put, we try to determine if you have enough money available to you to make minimal payments to creditors had you filed a Chapter 13 bankruptcy Petition instead. To apply this test, we obtain from you bank statements, pay advices and financial information. We request that you provide us with at least 27 weeks of pay advices and 6 months of bank statements. We use this information in a formula that allows us to determine whether or not you would qualify for a Chapter 7 bankruptcy. The formula is New Jersey specific and is based on many variables including your household size. To learn more about the “means test,” follow the following link to the Department of Justice webpage. This link provides valuable information on the subject: <http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm>

If you qualify for a Chapter 7 Bankruptcy, we will prepare the Bankruptcy Petition. We must provide a complete disclosure of all your assets and liabilities to the Court. This is done through many schedules in your bankruptcy petition. We will review your petition with you before filing to make sure that every asset you own was disclosed and every debt you owe was listed. Once this process is completed, the petition is then filed electronically with the Court. Upon filing the Chapter 7 petition, the “automatic stay” under 11 U.S.C. 362 goes into effect. This means that virtually all proceedings against you must stop, including attempts to collect debts.

Also upon filing the Chapter 7 petition, a Bankruptcy Estate is created under 11 U.S.C. 541. This means that virtually anything you own at the time of the filing (with a few exceptions) becomes part of the Bankruptcy Estate which is administered by a Trustee.

A list of all New Jersey Chapter 7 Trustees along with their address and phone numbers is located at the following link: http://www.justice.gov/ust/eo/private_trustee/locator/7.htm

After the filing of the Chapter 7 Bankruptcy Petition, you will be required to appear at a Meeting of Creditors. We will prepare you for the meeting in advance and tell you what to expect. We will also personally appear at the Meeting of Creditors with you. Presently, most Camden County and Gloucester County residents attend the meeting at the following location:

Bridge View Building
800 Cooper Street, Suite 102
Camden, New Jersey 08102

However, if the meeting of creditors is held in Northfield, the address is the following:

1423 Tilton Road, Suite 5
Northfield, New Jersey

For directions from your home, simply go to www.mapquest.com and enter the destination you need.

The purpose of the Meeting of Creditors is to provide the Trustee with an opportunity to examine you by asking you questions and reviewing your filed petition. The Trustee wants to make sure that you are aware of the potential consequences of seeking a discharge in bankruptcy (for example, the effects on credit history). The Trustee will also make sure that you understand that you may be able to file a petition under a different chapter of the Bankruptcy Code (such as Chapter 13). The Trustee may also explain the effect of receiving a discharge of debts and the effect of reaffirming debt.

The Bankruptcy Court does require that debtors participate in a Debt Counseling course. The list of Court Approved counseling agencies can be found at the following link:

http://www.justice.gov/ust/eo/bapcpa/ccde/CC_Files/CC_Approved_Agencies_HTML/cc_new_jersey/cc_new_jersey.htm

In summary, a Chapter 7 Bankruptcy filing is designed to allow persons who do not have the means to repay their debt to have an opportunity to discharge their debt with the goal of receiving a fresh start and moving on. Chapter 7 is usually a helpful tool for those struggling with credit card debts, medical bills, and other unsecured types of liabilities.

At Nash Law Firm, our attorneys are available to meet with you in person to determine whether a Chapter 7 Bankruptcy petition will assist you in dealing with an overwhelming financial situation or whether other tools are available for you.