


*Process of*

PERSONAL BANKRUPTCY

*In Ohio*

A close-up photograph of a wooden gavel and a black pen resting on a document. The document is titled "PETITION TO FILE FOR BANKRUPTCY" in a bold, serif font. The gavel is positioned diagonally across the top right of the document, and the pen is on the left side. The background is a light-colored wooden surface.

PETITION TO FILE FOR  
BANKRUPTCY

**WELCOME**

Since 1974 I have helped individuals solve their debt issues. The solutions have included consolidation, settlement, local Court controlled receivership, mortgage modification or refinance, and Chapter 7 or 13 bankruptcy. The nature and extent of debt determines the solution most suitable. Chapter 7 is a complete liquidation wherein the Trustee takes all non exempt assets and discharges all unsecured debts. Chapter 13 is a Trustee controlled repayment plan of some percentage of unsecured debts and some secured or priority debts.

There are a number of phrases that are often included in debt management advertising that are misunderstood. One such phrase is: when filing for bankruptcy, it is often touted that "most people get to keep all of their assets". Every kind of asset one might have is subject to an exemption value that determines whether or not the asset is retained. If the current fair market value of the asset is less than the exemption amount, the asset is retained. Current fair market value is the amount the asset could reasonably be sold for in today's market minus any debt associated with the asset. Another phrase is: "filing for bankruptcy has gotten much harder since the big law changes in 2005". The single biggest change is that if the "family income" is too high, Chapter 7 is not available, but Chapter 13 is. Family income is determined by a complicated "Means Test" that takes into consideration family income, family expenses, family size and type of debt. Yet another phrase is: if you are behind on payments for house or car, you are going to lose the item. That is true if you file a Chapter 7, but that is exactly what Chapter 13 is for. Chapter 13 gives us the opportunity to restructure secured debts to make the payments more affordable. And still another phrase is: you will never have credit again after bankruptcy. You will be able to get a vehicle loan or credit card immediately after discharge, mortgages, however, could take a while longer after discharge.

I have filed both Chapter 7 and 13 for many clients and have vast experience in addressing whatever issues might arise. The key to success is to determine what issues will arise before attempting any solution and addressing these issues in the solution.

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Filing for bankruptcy can be one of the scariest experiences you will ever have, but it can also be one of the most effective. Bankruptcy can be used as a tool to help you pull yourself out of a financial pit. It allows you to take action and get back on track, so as time passes, your financial situation can improve. Despite the benefits, many people postpone filing for bankruptcy because they are intimidated or concerned about how things will change. Understanding the bankruptcy process in Ohio makes it easier to finally take the action needed to regain control of your financial situation.

## **1** Making the Decision

Determining whether bankruptcy is right for you requires some consideration. First and foremost, you must legally qualify for bankruptcy in Ohio. A means test is used to determine your eligibility to file. The court looks at your average monthly income over a six month period and compares it to the median income in Ohio. If your income is less than the median, you can file for Chapter 7 bankruptcy. Those whose income exceeds the median will be subject to additional scrutiny or can choose to file for Chapter 13 bankruptcy.

## **2** Preparing the Paperwork

One of the most important parts of filing for bankruptcy in Ohio is filing your paperwork. In order to do so, you must itemize your current income sources, detail your major financial transactions over the last two years, list monthly living expenses, record assets, and list both secured and unsecured debts. Your tax returns from the last two years must also be submitted with your bankruptcy paperwork, as well as the deeds to real estate, vehicle titles, and documentation from any current loans.

An attorney can help you gather, organize and submit all of this information. Keep in mind that if the information you submit is incomplete or incorrect, your case might be dismissed. Worse yet, if there are mistakes and you cannot prove they were unintentional, you could be accused of bankruptcy fraud. This is why it is so important to work with an experienced attorney when you file for bankruptcy.



### 3 Screening Attorneys

How do you find the right attorney? Your best bet is to interview a few different options and see who suits your style. Filing for bankruptcy is a fairly routine process for bankruptcy attorneys. Simple cases are easy for experienced attorneys and most are able to handle more complicated cases with a bit more time. Remember, just because your case might be simple for an attorney does not mean you should try to handle it on your own. Attorneys know the process inside and out, but filing for yourself can be complicated and a mistake that costs you a lot of money.



### 4 Bankruptcy Filing Process

Once your paperwork is organized, speak with your attorney about any property that might be exempt from seizure. This is based on Ohio exemptions and can prevent you from losing items that are near and dear to you.

Filing requires you to submit a two-page petition and a variety of other forms to the Ohio Bankruptcy Court. Your petition is reviewed by a bankruptcy court judge and portions of it are reviewed by creditors. The current court filing fees for bankruptcy in Ohio is \$310 for Chapter 13 and \$335 for Chapter 7, which can be difficult to afford when you are struggling financially. These figures do not even reflect the fees that you will need to come up with in order for an attorney to represent you. If necessary, take a few days or weeks to save up the money so you can file without frustration or difficulty and get the process moving along.

As soon as you begin the filing process for Chapter 7 or Chapter 13, an automatic stay is created. This automatic stay prevents creditors from attempting to collect on debts directly from you. Foreclosure actions must cease and you should receive no phone calls, emails or regular mail from creditors. If you fail to meet any repayment obligations, the automatic stay is lifted.

A trustee is appointed to each case by the court. The trustee oversees the repayment of creditors and thoroughly reviews paperwork, particularly the assets you have in your possession and the exemptions you wish to claim.

## 5 Chapter 13 Bankruptcy

Those filing for Chapter 13 bankruptcy must submit a proposed repayment plan. This tells the court how much you have to put toward your debts once your monthly expenses are paid. Claims that are considered a priority, including taxes and back child support payments, must be paid in full. Unsecured debts are usually paid partially and the judge overseeing your case will determine what percentage of these debts must be repaid. At a minimum, creditors must be paid at least as much as they would have received in a Chapter 7 filing. Once the repayment plan is adjusted or approved, you must begin your payments and continue them until your case is released from bankruptcy court.

## 6 Meeting of Creditors



Approximately a month after you have filed for bankruptcy in Ohio, a 341 Meeting of Creditors will be scheduled for your case. You are legally required to attend the meeting and should bring your attorney with you. It is uncommon for creditors to attend a Chapter 7 meeting, but some usually attend Chapter 13 meetings. If they have any objections to your filing, this is when they will arise. The objections can be settled through negotiation of debts and will be decided by the bankruptcy court judge if creditors and the debtor are unable to compromise. Your attorney can speak on your behalf in this meeting and make it easier to negotiate a settlement, should the need arise.

If you are considering bankruptcy or you are ready to file for bankruptcy in Ohio, Ronald Stanley can help. For more information, contact him at 330.952.1415 or by email at [legal50@aol.com](mailto:legal50@aol.com).

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