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A PLAIN-ENGLISH GUIDE

20 Bankruptcy Myths

Straight answers about what filing for bankruptcy in Texas really means.

Fear and bad information keep people in debt longer than the debt itself does. Here are twenty of the most common myths we hear, and what is actually true.

JEROME A. BROWN · BOARD CERTIFIED IN CONSUMER & BUSINESS BANKRUPTCY LAW, TEXAS
BOARD OF LEGAL SPECIALIZATION

Offices in Austin and Victoria · Free initial consultation

Most of what people “know” about bankruptcy is wrong.

Bankruptcy is one of the most misunderstood areas of the law, and the myths can be costly. People drain retirement accounts, dodge phone calls for years, or simply suffer, all because of things they heard that are not true. The pages that follow clear up the twenty misconceptions we run into most often. If your own situation raises a question these answers do not reach, that is exactly what a consultation is for.

1

THE MYTH

Filing bankruptcy means you are a bad person.

THE REALITY

Bankruptcy is a legal right, not a verdict on your character. More than half a million Americans filed in the most recent year measured by the Administrative Office of the U.S. Courts. The large majority are ordinary, hard-working people set back by a job loss, a medical crisis, a divorce, or a business that did not work out. The law was built so that honest people can recover and get a genuine fresh start.

2

THE MYTH

Everyone will find out that you filed.

THE REALITY

A bankruptcy is technically a public record, but in practice the only people who learn about it are your creditors and whoever you choose to tell. Newspapers almost never report an ordinary consumer filing. Unless you are a public figure, it is very unlikely anyone would ever know.

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THE MYTH

You have to be flat broke or behind on everything before you can file.

THE REALITY

There is no rule that you must be penniless or already in default. In fact, waiting until you have emptied your savings or borrowed against your retirement often makes matters worse. It is worth getting advice *before* you spend money you may not need to spend.

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THE MYTH

It is better to keep struggling and try to repay everything than to file.

THE REALITY

Minimum payments at high interest can keep you in debt for years with almost no progress on the balance. Bankruptcy is a tool the law provides to break that cycle. Using it is a practical financial decision, not a personal failing.

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THE MYTH

You cannot really file anymore, and the law now forces you to pay everything back.

THE REALITY

This traces back to confusion about the 2005 amendments to the bankruptcy law, which are now two decades old. Almost everything that was possible before is still possible. In a Chapter 7, qualifying unsecured debts such as credit cards and medical bills are typically wiped out. In a Chapter 13, what you repay is based on your income and what you own, and full repayment is rarely required.

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THE MYTH

You lose everything you own when you file.

THE REALITY

Exemptions under Texas and federal law protect most of what people own, which often includes a home, vehicles, household goods, and retirement accounts. Many Chapter 7 cases close without the debtor losing any property at all. Careful planning before you file is what makes that outcome possible.

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THE MYTH

You will never be able to own anything again.

THE REALITY

Not true. After your case is filed you can buy and own whatever you can afford, and property you acquire afterward is generally yours to keep.

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THE MYTH

Creditors will keep harassing you even after you file.

THE REALITY

The moment you file, the automatic stay takes effect under 11 U.S.C. § 362. It is a federal court order that requires creditors to stop the calls, letters, lawsuits, garnishments, repossessions, and foreclosures. A creditor who ignores it can be brought before the court and penalized.

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THE MYTH

You do not need a lawyer, because it is just filling out forms.

THE REALITY

Those forms carry real legal weight and are signed under penalty of perjury. Exemptions, the means test, and creditor objections all involve judgment calls that affect what you keep and whether your debts are discharged. Filing without counsel is possible, but the margin for a costly mistake is real.

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THE MYTH

You cannot afford to even talk to a bankruptcy attorney.

THE REALITY

The Brown Law Firm offers a free initial consultation and works with clients on flexible payment plans, including those on a fixed income. The first conversation costs nothing and is meant to give you accurate information about your options.

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THE MYTH

Bankruptcy ruins your credit forever and you will never get credit again.

THE REALITY

No honest lawyer will tell you bankruptcy helps your score. But if you are seriously considering it, missed payments have likely already damaged your credit. Bankruptcy draws a line under the old debt, and many people are in a position to start rebuilding within a year or two of filing.

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THE MYTH

A debt consolidation or credit repair company is a better path than dealing with the debt directly.

THE REALITY

Be careful here. Many debt consolidation outfits are lightly regulated, keep a large share of what you pay as fees, and can leave you worse off than when you started. Credit repair companies often charge for results that time and steady payments would produce on their own. *Attorney-supervised debt settlement is a different matter, and it is one of the options the firm can walk through with you.*

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THE MYTH

If you filed bankruptcy once, you can never file again.

THE REALITY

Filing once does not automatically disqualify you from filing again. Depending on your earlier case, there may be a waiting period before you are eligible for another discharge, and the rules turn on the specifics. If you have filed before, do not assume the door is closed. The fastest way to find out where you stand is a short consultation.

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THE MYTH

Once a creditor has sued you, it is too late to file.

THE REALITY

Filing stops a lawsuit, wage garnishment, foreclosure, or repossession through the automatic stay. Being served is not the end of the road, and in many cases bankruptcy halts the collection action in its tracks.

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THE MYTH

Large tax debts can never be touched.

THE REALITY

Some older income tax debt can actually be discharged in bankruptcy when it meets specific timing tests, and the automatic stay stops collection while your case is open. In a Chapter 13, priority taxes can be paid through your repayment plan over time. Whether your taxes qualify comes down to the details, so it is worth asking.

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THE MYTH

You should cash in your 401(k) or retirement account before filing.

THE REALITY

This is usually a mistake. Retirement accounts are generally protected in bankruptcy with no dollar limit, so draining one to pay creditors can trade away an exempt asset and leave you with taxes, early-withdrawal penalties, and a weaker future. Talk to someone before you touch retirement money.

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THE MYTH

If you are married, both spouses must file, and it will wreck the other spouse's credit.

THE REALITY

One spouse can file alone. A filing by one spouse generally does not appear on or harm the non-filing spouse's credit, as long as the discharged debt is individual. Jointly held debts are where this gets more complicated, and worth reviewing with counsel.

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THE MYTH

Filing bankruptcy causes family conflict and leads to divorce.

THE REALITY

It is usually the unpaid bills, not the filing, that create the strain. Lifting the weight of debt and constant collector calls often lowers the pressure that money trouble puts on a marriage rather than adding to it.

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THE MYTH

After the credit counseling course you must wait six months before you can file.

THE REALITY

It is the opposite. The credit counseling certificate is valid for 180 days, and you must file *within* that window to use it. There is no waiting period after the course is done.

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THE MYTH

You can be fired just for filing bankruptcy.

THE REALITY

Federal law at 11 U.S.C. § 525 prohibits an employer from discriminating against you because you filed for bankruptcy. It is a common worry that rarely plays out in the real world.

General information, not legal advice.

This guide explains, in general terms, how bankruptcy tends to work for individuals in Texas. It is **not legal advice** and does not create an attorney-client relationship. Bankruptcy outcomes turn on the specific facts of your situation, your district, and current law, all of which change from one case to the next.

Before you act on anything here, talk with a bankruptcy attorney about your own circumstances. That is the only way to know how these rules apply to you.

Have a question this did not answer?

Schedule a free, no-obligation consultation with The Brown Law Firm.

Text us: (512) 306-0092

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