

THE BROWN LAW FIRM

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BANKRUPTCY IN TEXAS

What You Keep

*Your home, your car, your retirement, and the property
Texas law protects when you file.*

“Will I lose everything?” is the first question almost everyone asks. For most Texans the answer is no, and the reasons why are worth understanding before you decide.

JEROME A. BROWN · BOARD CERTIFIED IN CONSUMER & BUSINESS BANKRUPTCY LAW, TEXAS
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Offices in Austin and Victoria · Free initial consultation

Most people keep their home, their car, and nearly everything else.

The biggest fear about bankruptcy is losing everything you have worked for. In reality, Texas has some of the most protective exemption laws in the country, and the large majority of filers keep all of their property. Here is what is protected, and the few places where it gets more complicated.

SECTION ONE

What's Protected

Will I lose my property when I file?

Most people keep everything they own. The law protects, or “exempts,” a long list of property from creditors, and Texas exemptions are among the most generous in the country. Exemptions are simply the categories of property the law lets you keep, things like your home, your vehicles, household goods, and retirement accounts. In the large majority of Chapter 7 cases, the filer does not lose a single item. Careful planning before you file is what makes that happen.

Do I have to have lived in Texas to use the Texas exemptions?

Generally, yes. To claim the Texas exemptions, you usually must have lived in Texas for at least two years, 730 days, before filing. If you moved here more recently, a different state's exemptions or the federal set may apply instead. It is one of the first things we check, because it shapes what you can protect.

Do I get to choose which assets and debts go into my bankruptcy?

No. You must list everything, all of your property and all of your debts. Bankruptcy is built on full disclosure, and leaving things out can cost you your discharge. What you can choose, within limits, is whether to keep certain property you owe money on by continuing to pay for it. We walk you through those decisions.

How is an inheritance treated?

In a Chapter 7, if you become entitled to an inheritance within 180 days after you file, it can become part of your case even if the money arrives later. The key date is usually the date of the person's death, not when you receive the funds. If an inheritance is anywhere on the horizon, tell us, because timing matters.

SECTION TWO

Your Home & Car

Will I lose my house?

Almost certainly not. Texas has one of the strongest homestead exemptions in the country: it protects an unlimited amount of equity in your primary residence, with no dollar cap, subject to acreage limits of 10 acres in a city, or up to 100 acres rural for a single person and 200 for a family. As long as you stay current on your mortgage, most Texans keep their homes through bankruptcy, even with significant equity. *One exception worth a conversation: a home bought very recently before filing can be subject to a federal equity cap.*

Can bankruptcy stop a foreclosure?

Yes, at least to start. Filing triggers the automatic stay, which halts a foreclosure the moment your case is filed. In a Chapter 7, you generally need to stay current going forward, and a lender can ask the court for permission to proceed if you fall behind. In a Chapter 13, you can usually catch up the past-due amount through your repayment plan and keep the house. Either way, do not wait: the closer the sale date, the fewer the options.

Will I lose my car?

Usually not. Texas lets you exempt the full value of one vehicle per licensed member of your household, with no strict dollar cap on the car's value. If you are current and want to keep a financed vehicle, you generally can. Bankruptcy is designed to let families keep the transportation they need.

My car was already repossessed. Is it too late?

Maybe not, if you move fast. A Chapter 13 filed quickly after a repossession can sometimes require the lender to return the vehicle so you can pay for it through your plan. But once the car has been sold, that window closes. If your car has just been taken, call immediately.

Can you lower my car payment?

Sometimes, in a Chapter 13. Depending on how long ago you bought the vehicle, a Chapter 13 plan may let you pay the car's value rather than the full loan balance, which can reduce the monthly payment. Whether that is available depends on the timing of your purchase, which we check.

SECTION THREE

Retirement & Savings

Will I lose my retirement or my Social Security?

Generally, no. Qualified retirement accounts like 401(k)s and IRAs are protected in bankruptcy, and Social Security benefits are protected as well. For most people, retirement savings come through bankruptcy untouched.

Should I cash in my 401(k) or IRA to avoid filing?

Please talk to us first. Draining a protected retirement account to pay creditors is often a costly mistake: you may trigger taxes and early-withdrawal penalties, and you spend down an asset that bankruptcy would have let you keep. Many people do real damage to their future this way before they get advice.

SECTION FOUR

Keeping What You Owe On

What is a reaffirmation agreement?

It is an agreement to stay legally responsible for a specific secured debt, like a car loan, so you can keep the property after bankruptcy. You agree to keep paying, and the lender agrees not to repossess as long as you do.

Do I have to reaffirm, and what does it do?

No. Reaffirming is voluntary. The effect is that the debt is not wiped out: you stay personally liable for it, even if your finances change later. Because that is a real commitment, it is a decision we go through carefully with you, so you only reaffirm where it genuinely makes sense.

What does it mean to redeem property?

Redemption lets you keep certain personal property by paying the lender its current value in a lump sum, instead of the full balance owed. If you owe more on an item than it is worth, redemption can let you keep it for less. It applies to specific kinds of property, and we tell you when it is an option.

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.

Worried you'll lose what matters most?

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

Text us: (512) 306-0092

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