



## THE NEEDLEMAN LAW OFFICE

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### **Should I Use a Bankruptcy Petition Preparer?**

**Bankruptcy petition preparers may be helpful, but be aware of their limitations.**

As bankruptcy filings increase nationwide, more and more people are seeking help from bankruptcy petition preparers, also called “typing services” or “paralegals.” These are non-lawyer typing services that charge a fee to generate your bankruptcy forms, under your strict direction and control.

It is important to remember that bankruptcy petition preparers are not lawyers and cannot provide any legal advice regarding your bankruptcy. But, if you don't have access to a typewriter or computer, a good bankruptcy petition preparer can produce the forms you need for a reasonable fee.

Before you hire a bankruptcy petition preparer, learn what they can and cannot do, what legal requirements apply to their businesses, and where to get more bankruptcy information and legal help.

#### **What Is a Bankruptcy Petition Preparer?**

A bankruptcy petition preparer is any person or business, other than a lawyer or someone who works for a lawyer, that charges a fee to prepare bankruptcy documents. Under your direction and control, the bankruptcy petition preparer generates bankruptcy forms for you to file either by typing them or inputting information into a bankruptcy software program.

Because bankruptcy petition preparers are not attorneys, they cannot provide legal advice or represent you in bankruptcy court. This means that the bankruptcy petition preparer cannot:

- tell you which type of bankruptcy to file
- tell you not to list certain debts
- tell you not to list certain assets, or
- tell you what property to exempt.

In essence, *you* must understand what debts your bankruptcy will discharge, what will happen to your property in the bankruptcy, and what laws should be used to exempt your property from being taken for the benefit of your creditors.

In addition, you must file the bankruptcy papers yourself and represent yourself in court. In other words, you are responsible for your case. You act as your own



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attorney and use the bankruptcy petition preparer as a typing service that transposes the information you give them onto the official forms.

### **Why Use a Bankruptcy Petition Preparer?**

The bankruptcy petition preparer can't tell you anything about the law or the bankruptcy process, so why use one?

If you don't have ready access to a typewriter or computer, then you may want to pay someone to prepare the forms for you. A good bankruptcy petition preparer will have up-to-date bankruptcy computer software that will generate the documents quickly and relatively easily. And most bankruptcy petition preparers charge low fees, especially compared to lawyers.

Before you hire a bankruptcy petition preparer, learn about bankruptcy law and the options for completing your bankruptcy paperwork (see "Ways to Get Bankruptcy Help," below).

### **Requirements for Bankruptcy Petition Preparers**

Anyone can be a bankruptcy petition preparer. There are no educational, age, or experience requirements. Nor are bankruptcy petition preparers required to take a test or pass a background check.

Nevertheless, bankruptcy law does require bankruptcy petition preparers to follow certain business practices. Among other things, bankruptcy petition preparers must:

- provide a written contract defining their services and fees
- provide written disclosures summarizing the different kinds of bankruptcy and the associated procedures
- identify themselves (in their marketing materials) as debt relief agencies providing services under the federal bankruptcy code
- not charge an unreasonable fee (fees generally range from \$100 to \$200)
- not collect or handle the bankruptcy filing fees or other court fees (you must do that yourself)
- file a fee disclosure statement with the court (stating how much they have charged you for services)
- include their name and social security or tax identification number on the documents they prepare, and
- not use, or advertise with, the word "legal" or any similar term.

These restrictions apply only to bankruptcy petition preparers, who, by definition, charge a fee. People who help others for free are not subject to these rules.



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### Ways to Get Bankruptcy Help

There are several ways to learn about bankruptcy and generate bankruptcy forms.

#### Do It Yourself

Bankruptcy books and websites abound, providing both basic and detailed information on filing for bankruptcy. After reading the information, many people find that they are able to understand the basics of bankruptcy law and prepare the forms on their own.

Arming yourself with information will never be a waste. If you plan to use a bankruptcy petition preparer, you'll have to read about and understand the whole process anyway. And even if you use a lawyer, it is still wise to understand the basics yourself.

Some good sources of self-help information are at **Government websites**. You can find the official bankruptcy forms in fill-in-the-blank PDF format at [www.uscourts.gov](http://www.uscourts.gov).

#### Get Help From a Lawyer

Depending on your comfort level with the law and the complexity of your financial situation, you may want to get help from a lawyer. There are several ways to use a lawyer in bankruptcy.

**Legal orientation.** You might be able to find a lawyer to give you an orientation (for free or a small charge) about your main choices -- typically, what type of bankruptcy to file, what exemptions to choose for your property, and what to do with property you are making payments on (such as a car or home).

**Legal consultations.** Some lawyers offer more in-depth consultations for a fee. You can get advice specific to your situation, and then prepare and file the documents on your own.

**Legal representation.** You can retain a lawyer to represent you from start to finish in the bankruptcy case. Obviously, this is the most expensive route.



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### **How to Choose a Bankruptcy Petition Preparer**

If you decide to hire a bankruptcy petition preparer to input your information onto the bankruptcy forms, be choosy. Here are some tips.

**Stay local -- don't use Internet services.** Avoid bankruptcy petition preparers that operate on the Internet. You can't be sure that the paperwork Internet services prepare will meet the requirements of your local court, and you may end up having to hire a lawyer to untangle the mess.

**Get recommendations.** Ask family members, friends, or even lawyers if they recommend a local bankruptcy petition preparer.

**Make sure the preparer meets legal requirements.** Don't use a bankruptcy petition preparer that violates any of the requirements discussed above. For example, don't use one that attempts to give you legal advice, uses the word "legal" in their advertising or business name, doesn't use a contract for services, or asks you to give them the court filing fees. If the preparer plays loose with the law in these respects, you shouldn't use him or her to type your forms.

**Check their fees.** Check with your local bankruptcy court for fee restrictions on bankruptcy petition preparers. If your court doesn't limit bankruptcy petition preparer fees, make sure the fee is reasonable in your area (shop around). A reasonable fee is usually between \$100 and \$200.

**Read everything.** Read the contract for services before you agree to pay the bankruptcy petition preparer. And then, when the documents are done, read everything carefully. Remember, *you* are responsible for what is included on the forms.

### **The Bottom Line**

Hiring a bankruptcy petition preparer can be an inexpensive way to get your bankruptcy documents done if you don't have access to a typewriter or computer, or simply want someone to do the data input for you. But remember what the preparer is -- a typing service. It's your job to know the law and decide what information goes on the forms.