



## THE NEEDLEMAN LAW OFFICE

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# Your Obligations Under a Chapter 13 Bankruptcy Plan

### **Learn which debts you must pay back when you file for Chapter 13 bankruptcy.**

To begin a Chapter 13 bankruptcy, you fill out a packet of forms -- mostly the same forms as you would use in a Chapter 7 bankruptcy -- listing your income, property, expenses, and debts. You file these forms and paperwork with a nearby bankruptcy court. You must also file a workable payment plan proposing how you plan to handle your debts over the payment plan period.

You must also file your tax return for the previous year, proof that you've filed your tax returns for the last four years, and a certificate showing that you've completed credit counseling with an agency approved by the United States Trustee (go to [www.usdoj.gov/ust](http://www.usdoj.gov/ust), then click "Credit Counseling and Debtor Education" for a list of approved agencies).

Under a Chapter 13 plan, you make payments, usually monthly, to the bankruptcy trustee, an official appointed by the bankruptcy court to oversee your case. The trustee in turn pays your creditors and collects a statutory commission based on the amounts paid out under your plan. You must make every payment, on time, in order to successfully complete your plan and get a discharge of your remaining debts.

### **How Much You'll Have to Pay**

Some creditors are entitled to receive 100% of what you owe them, while others may receive a much smaller percentage (or nothing at all). Typically, Chapter 13 bankruptcy plans must provide that:

#### **Administrative claims will be paid 100%.** These include:

- your filing fee (\$274)
- the trustee's commission (3% to 10% of each monthly payment), and
- attorney's fees, if you hire an attorney for help with your Chapter 13 bankruptcy.

#### **Priority debts will be paid 100%.** These include:

- back alimony and child support
- most tax debts (including state and federal income taxes)
- wages, salaries, or commissions you owe to employees, and



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- contributions you owe to an employee benefit fund.

**Mortgage defaults will be paid 100%** if you want to keep your house.

**Other secured debt defaults will be paid 100%** if you want to keep the property. Missed car payments fall into this category.

**Unsecured debts** will be paid anywhere from 0% to 100% of what you owe. The exact amount depends on:

- the total value of your nonexempt property
- the amount of disposable income you have each month to put toward your debts, and
- how long your plan lasts.

### **Disposable Income**

Your payment plan must commit to paying any leftover disposable income (your income less certain allowed expenses and payments on secured loans, such as a mortgage or car loan) towards your unsecured debts, such as credit card debts and medical bills.

### **Length of Payment Plan**

The length of your payment plan depends on your income level. If your "current monthly income" (your average income over the six months prior to filing) exceeds the median monthly income for a household of your size in your state, your plan must last five years. If your income is less than the median, you can propose a three-year plan, even if your unsecured creditors cannot be fully repaid during that time. (To find the median income figures for your state, go to the United States Trustee's website, [www.usdoj.gov/ust](http://www.usdoj.gov/ust), and click "Means Testing Information.")

**Your "current" monthly income might be out of date.** Because your current monthly income, as calculated above, is an average, it may well be more than your actual monthly income at the time you file. For instance, if you were laid off unexpectedly three months before filing, your monthly income when you file may be quite low -- as compared to your average income over the last six months, which will have to include three months of your salary.

### **No Surrender of Property**

If you file for Chapter 13 bankruptcy, you don't have to hand over any of your property; instead, you repay your debts out of your income. In exchange for



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getting to keep your property, your plan will have to pay your creditors at least the value of your nonexempt property. (In Chapter 7 bankruptcy, you must surrender your nonexempt property to the trustee, who can sell it and distribute the proceeds to your creditors. You do get to keep property that is exempt.)

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