

Do's and Don'ts of Bankruptcy

Pre-Bankruptcy Do's and Don'ts

You're considering bankruptcy in 6 months to a year if things don't turn around. What should you do (or not do) in the meantime?

The following scenario happens to many people, every day...You're not quite drowning in debt, but things are headed in that direction. Maybe you've overspent with the credit cards, and the monthly payments are becoming ever more burdensome. Maybe you've lost some hours at work, or the overtime just isn't there anymore. Maybe your older vehicle just conked out on you, and you're looking at a couple thousand dollars to repair or replace it. In any event, you're hanging in there, but don't know how much longer you can. If things don't turn around soon, you might be seriously considering bankruptcy.

For now, you want to do everything possible to avoid the necessity of filing, or at the very least, you don't want to take any actions that would jeopardize your chances of a good outcome in the event that filing does become necessary. Here are some do's and don'ts:

Don't increase credit card usage. There are strict "lookback" laws governing exactly how much you may charge shortly before filing a bankruptcy without creditors objecting to your discharge. By overusing your credit cards, you put yourself further in debt, thereby increasing the likelihood of bankruptcy, while at the same time reducing your chances of successfully obtaining a discharge. A double whammy.

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Don't borrow against your home to pay down credit card accounts. If you have equity in your home, beware the temptation of tapping into that equity to help catch up with credit card payments. Doing so puts your home at risk in the event that things don't turn around for you. And if you go the bankruptcy route, you've converted what would have been dischargeable debt (unsecured credit cards) into debt that is now non-dischargeable, i.e. secured debt such as a home equity loan or line of credit.

Don't withdraw money from your retirement plan to pay down unsecured debt. Unless, that is, you're very confident that doing so will get you out of the hole. Because if it doesn't, and bankruptcy becomes necessary, you've reduced a debt total that would have been discharged anyway regardless of amount ("water under the bridge") with an asset that very likely could have been protected (IRAs, 401Ks, and most other qualified retirement plans are generally exempt in bankruptcy) but instead is now gone or reduced.

Don't transfer assets. If the goal is to "hide assets" in anticipation of bankruptcy, then this is an absolute no-no. A vehicle trade-in is ok, as would be a sale of assets provided that the proceeds were properly used to catch up with mortgage/rent, car payment, or other necessities. In any event, be ready to provide a thorough accounting of the transaction.

Do stay current with your mortgage payment. If you simply cannot stay current on both your credit cards and your mortgage but must choose one or the other, it's the mortgage payment that you should make. Even though the interest rate is lower, the mortgage is secured by what is no doubt your single largest asset – your home, which in almost no event should you be putting at risk. In the bankruptcy context, credit card debt is easily discharged, while a mortgage delinquency is at best negotiable.

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Do consider credit counseling and/or debt consolidation. Used properly, these tools might get you back on track and avoid the need for bankruptcy. Do your homework by checking on the reputability of the agency before you proceed; there are plenty of scam artists who will charge hefty fees while in the end only leaving you further behind.

Do seek the help of a reputable, qualified bankruptcy attorney. If your circumstances do not improve, and bankruptcy seems like the best, or only, option, a consultation – which many bankruptcy attorneys will provide free of charge – can ease your stress and anxiety by setting you on a path toward debt relief.

[Contact](#) my office today for a consultation. I can help you decide if Bankruptcy is the right choice for you, and you can rest assured that your case will be handled the right way.

[Website](#)

Call Attorney Romito for a quote on bankruptcy - 412-373-5578