

Top Ten Bankruptcy Myths

1. **If someone has sued me, I can't file bankruptcy on that debt.**

If a credit card or medical provider has taken you to court, and even started garnishing wages, you still can wipe out that debt in bankruptcy. If the lawsuit has to do with child support, taxes, or is a criminal matter, that debt is probably not dischargeable. Meeting with an attorney is important to sort out exactly how bankruptcy will help you.

2. **I'll lose my home and car if I file bankruptcy.**

You have the right to reaffirm, or agree to pay back secured debts like homes and vehicles. You are entitled to certain exemptions in equity depending on the state you have lived in the past two years. Your attorney will help you decide whether it is in your best interest to keep or surrender your home or car once the value and amount of debt is determined.

3. **I can give away or transfer things I own to protect them from my creditors.**

This could be fraud. Talk with your attorney before you sign away any titles or deeds. You have exemptions that protect certain amounts of assets. Selling an asset may be fine, but giving it away is usually not.

4. **I can file a "medical" bankruptcy.**

While medical bills are often the most common reason people file bankruptcy, you must list all debts, including those to family, friends, and secured debts, like homes and vehicles. There is no such a thing as a medical bankruptcy. Your attorney can explain what debts you can agree to pay back through a reaffirmation. See # 2 above.

5. **I'll never get credit again if I file bankruptcy.**

A bankruptcy will be on your credit report for 10 years but you can rebuild your credit in a shorter time. It is up to the individual lender as to how soon after a bankruptcy they will loan someone money for a home or car. FHA has a 3 year rule for home loans. Interest rates may be higher, or you may be required to provide a larger down payment.

6. **Taxes or student loans are never dischargeable.**

Talk to your attorney. If you are disabled or would suffer an "undue hardship" a student loan can be wiped out. Income taxes that are more than 3 years old and on file may also be discharged if all the proper criteria are met. Repayment in a Ch. 13 is also a possibility.

7. **I can keep all of my property and get rid of all my debt.**

Secured debts, such as home and car loans are dealt with differently than unsecured debts, like credit card or medical bills. There is no fund out there that pays your secured debts and gives you a free house or car. Your attorney will help you decide if can afford to keep certain assets. Sometimes the hard decision to lose a house or car is the best choice. Some debts are not dischargeable like child support, student loans or tax debt. See # 6 above.

8. **I can keep certain credit cards if I want.**

You must list all your debts, and even if you have been paying on some of your credit cards, they will all be frozen at the time you file bankruptcy. The best course of action is to immediately stop using all credit cards. Continued use in the 90 days before filing can be viewed as fraudulent.

9. **I could lose my job if I file bankruptcy.**

The law says your employer cannot fire you simply because you filed bankruptcy, or discriminate against you.

10. **I don't need a lawyer to file bankruptcy.**

While this is technically true, there is a big risk you won't understand how the law applies to assets like tax refunds, personal injury claims, or inheritance. You could lose far more than you'd save by not getting the legal advice you need. The attorneys at Dempsey, Dempsey & Moelling have over 24 years of experience. Why go into court without an advocate on your side?