

# Alternatives To Bankruptcy

## Are there any alternatives to bankruptcy?

Yes, there are several alternatives to filing for bankruptcy. The alternatives depend on:

- The type of debts you have, and
- Your goals.

Read below to learn more.

## What are the different types of debts?

There are two types of debts: secured and unsecured.

*Secured debts* are debts created to buy property, such as a home loan, auto loan, or money borrowed to buy a TV, furniture or other property.

*Unsecured debts* are all other debts, such as credit card debts, payday loans, medical bills, etc.

## What can I do if I am behind on a *secured* loan, like a house or auto payment?

If you are behind on your payments for any kind of secured loan, try and work with your lender to pay off the payments you have missed. (This is called the arrearage.) Most lenders will cooperate with you because it helps them get paid.

The lender will probably give you a certain amount of time to pay what you owe. If you CANNOT pay within that time frame, you will need to look at other options. (See the next question.)

## What if I cannot pay the lender back as quickly as they want?

If you cannot pay the lender back in the time frame demanded, you have two other alternatives before you file for bankruptcy.

1. **Do nothing.** By doing nothing, you are forcing the lender to foreclose or repossess the property. This gives you the benefit of using the property as long as possible. But, it also means you may have an additional unsecured debt because of the missed payments and fees. The unsecured debt is a result of the property being sold for less than is owed by the debt. If the amount of the unsecured debt is large enough, the lender may decide to collect the unsecured debt, too.
2. **Surrender the property.** You can give the property back to the lender. This minimizes any unsecured debt *and* you will not aggravate the lender.

## What alternatives do I have for unsecured debts?

You have more options with unsecured debts. The best option for you depends on your goals. Your options include:

1. **Do nothing.** Doing nothing is an option, but it is not the best option. If you know that you cannot afford to pay anything to your creditors, it is better to send your creditors a “*Cease and Desist*” letter. (See #3 below.)
2. **Negotiate with your creditors.** It is not difficult to negotiate with your creditors. When a creditor contacts you about your debt, ask if you can set up a payment plan. If the creditors have not contacted you yet, call their Customer Service phone number and ask to speak to someone about a payment plan. (Look for their Customer Service number on your statements or your credit card.)

Tell them how much you can afford to pay each month and see if your creditor will allow you to pay something close to that amount. Before you agree, make sure you understand how much more you will have to pay, including the interest.

3. **Send the creditors a “Cease and Desist” letter.** If debt collectors are driving you crazy, you can make them stop by sending a *Cease and Desist* letter. The letter basically tells the debt collector to stop all direct communications with you. After a debt collector receives this letter, they are not allowed to communicate directly with you about the debt. The debt collector will then have only one option: filing a lawsuit against you.

### What should I do if a creditor sues me?

Doing nothing may be your best bet, unless there are glaring problems with the debt or you are planning on filing for bankruptcy soon. It is often possible to fight a collection lawsuit. But you will need a lawyer to help you.

If there are glaring problems with the lawsuit (such as, the debt was already paid, the debt is due to identity theft, the debt belongs to a different person with the same name, etc.) you should get a lawyer to help you.

If you are planning on filing for bankruptcy soon, make sure you file the bankruptcy before the creditor gets a judgment and places a lien on your property.

### What if a creditor sued me and got a judgment against me?

In Texas, certain property is exempt from seizure by creditors. This means a creditor cannot take the property as payment of a debt. But the creditor you borrowed money from to purchase the property can seize that property..

In Texas, property that cannot be taken by creditors includes:

- The house and land where you live (called *homestead*)
- One or more cemetery plots, *and*
- Personal property with a “group” cumulative value of less than \$60,000 for a family or \$30,000 for a single adult. The “group” cumulative value means how much the property will sell for all together. It includes:
  - home furnishings, including family heirlooms
  - food and household supplies
  - farming or ranching vehicles and tools
  - tools, equipment, books, and vehicles used in your trade or profession
  - clothing
  - jewelry (maximum of \$7,500 for single adult or \$15,000 for a family)
  - two firearms
  - athletic and sporting equipment, including bicycles
  - one motor vehicle (2-, 3- or 4-wheeled) if the debtor has a driver’s license or driver
  - household pets
  - certain animals and forage on hand for each animal's consumption, including 2 horses, mules or donkeys plus a saddle, blanket and bridle for each, 12 head of cattle, 60 head of other types of livestock, and 120 fowl.

Important! *Exempt* property cannot be seized, but a creditor *can* place a lien on the property.