



Crisis Mode
Participant's Guide



About Bank On

Bank On Hampton Roads is truly a unique experience. Like a wellness plan for your finances, Bank On Hampton Roads offers all the education, support and encouragement you need to launch your financial plans. In this five month program, participants are encouraged to take the financial challenge to:

- Increase Income
- Grow Savings
- Reduce Debt
- Improve Credit Score
- Protect Assets

The way Bank On Hampton Roads works is you attend one class per month and meet with a personal financial coach once per month. In class you will learn some of the strategies for overcoming paycheck to paycheck living and speedy ways to reduce debt and see your savings grow. As you meet with your financial coach, you will build a financial plan centered on your goals and your dreams. With the combination of knowledge and improved financial management techniques, you can see your dreams become reality!

Bank On Hampton Roads is one of over 70 programs across the United States organized to improve your financial opportunities by building relationships with trusted financial partners and empowering you to take greater financial control.

Classes begin in February and September and the program is absolutely free to the participant.

Many of Bank On Hampton Roads resources are available online at www.bankonhr.org.

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Table of Contents

- Welcome
- Pre-Test
- When You Are In Crisis
- Prioritizing Payments
- Making Hard Decisions
- Communicating with Creditors
- Negotiating Tips
- Letters to Creditors
- Your Rights and Responsibilities with Collectors
- Halting Creditor Calls
- Garnishments
- More Legal Actions
- Workout Options to Avoid Foreclosure
- Types of Bankruptcy
- The Downside of Bankruptcy
- Debts that Are Not Discharged During Bankruptcy
- Alternatives to Bankruptcy
- Financial Abuse
- Post-Test
- Glossary

Welcome

Welcome to the *Crisis Mode* module!

Objectives

After completing this module, you will be able to:

- Know your rights and responsibilities with creditors
- Understand what steps you can take to minimize financial crisis
- Know how to prioritize payments when resources are limited
- Create positive relationships with your creditors
- Understand legal actions that may result from non-payment of debt
- Know how Chapter 7 and Chapter 13 bankruptcies differ
- Recognize indicators of financial abuse
- Identify steps to free yourself from financial abuse

Participant Materials

This *Crisis Mode* Participant Guide contains:

- Checklists and tip sheets
- A glossary of the terms used in this module

Pre-Test

Test your knowledge about financial services

1. **Which expense should have highest priority?**
 - a. Food
 - b. Clothing
 - c. Shelter
 - d. Transportation

2. **Collection agencies are allowed to call you at your residence between what hours?**
 - a. 6am to 11pm
 - b. 8am to 9pm
 - c. Any time

3. **You have \$100 left for bill payment. You have two bills of \$100 each. What is the best option?**
 - a. Go out to eat to de-stress and then divide what is leftover between the two
 - b. Pay neither; treat them both the same
 - c. Send \$50 to each company
 - d. Pay one bill completely and nothing on the other

4. **If a court orders a wage garnishment against you for not paying your rent, how much can they take out of every paycheck?**
 - a. Up to 25% of disposable earnings
 - b. Up to 50% of disposable earnings
 - c. 100% of your paycheck

5. **In Virginia, your vehicle cannot be repossessed until your payment is at least 15 days past due.**
 - a. True
 - b. False

When You Are In Crisis

People evaluate crisis differently. For the purposes of this module, you are in crisis if you cannot meet your necessary expenses. You may *not* be in crisis if you merely don't have entertainment or allowance money for the month. At the point of crisis, all attention is off the "wants" and is focused on "needs." Causes of crisis include: loss of work, reduction in income, unplanned or unexpected expenses (medical, etc.), some threat (abuse, robbery, ID theft) or a legal action (e.g. garnishment, levy, repo).

You CAN navigate your way through a crisis. Below is a list of steps you can take to help you through. . Because this is a stressful situation, consider ways you can control your stress levels. Navigating through financial crisis can be emotional and overwhelming; but with some basic financial steps, you gain greater control

Evaluate your condition:

- When are your bills due? List your monthly financial obligations.
- How much income can you expect and when?
- Do you have assets that can be turned into cash to help you make an essential payment?

What are your options?

Additional Income: A part-time job may help you earn additional income to minimize the crisis. Think about how you can turn a hobby or special skill into a source of income even for a short period of time.

Austerity Living: First, prioritize needs and then wants. You may have a couple of months where "wants" are neglected.

Supplemental Support: Assistance may be available through family, church or public programs. Bank On Hampton Roads website has a Resource Guide of non-profit and public organizations to assist in a time of need.

Creditor Arrangements: Contact and negotiate with your creditors to consider your options.

Debt Consolidation: This may or may not be an option, but it's one that may be worth exploring. It's a longer term fix, but it can free up cash. See Resource Guide for additional credit counseling resources.

Make a plan:

- Prioritize payments to ensure that your essential expenses are covered.
- Map your money – estimate income and expenses for the next few weeks to ensure there is enough to address high priority items.
- Involve the family – everyone has to be on board with getting through this tough time.

Danger Zones: There are a lot of companies offering to help you when you are in crisis and not all of them have your best interest in mind. Credit repair scams, payday and title lenders all offer quick fixes, but they could end up hurting you in the long run. **Be very careful!**

Avoid Repeating: The good news is that what you are learning can help keep you out of crisis mode by building savings and establishing good repayment practices.

Prioritizing Payments

Take time to evaluate your payments and organize them according to priority. Highest priority payments would be those that would have the greatest negative consequences if they were not addressed.

Examples of very high priority expenses:

Shelter is highest priority and should be paid at any cost. Pay your rent or mortgage first. Not giving top priority to shelter could result in loss of your home.

Utilities should be your next priority. Without running water or electricity, social services agencies may become involved to evaluate the health and wellbeing of the family.

Transportation is critical because you need a way to get to work. In our community, public transportation is limited in certain areas, so many of us need our personal vehicles. Non-payment can result in repossession.

Food is essential to stay healthy. You can't work if you aren't well. In a crisis situation, you may find community resources that offer food pantries or support for food. Call 2-1-1 for a referral to local providers. Public programs like SNAP also assist with food needs.

Medicine could be a top priority if you have a condition that requires prescription medicines.

After your highest priorities are paid, then list your other payment obligations.

Student Loan service providers offer a number of repayment plans. It is worthwhile to contact them to discuss your options.

Credit Card Debt is unsecured, so there is no asset that the credit card company can take from you if you do not make a payment. Contact them when financial difficulties arise for payment alternatives.

Internet and Cable are often viewed as necessities, however, life can continue if these bills are given lesser priority.

Eating Out is a convenience. In a time of crisis, this may be able to be deferred until you are able to regain some financial stability. Carefully evaluate your needs vs. wants.

Entertainment offers fun, but in a time of crisis, this expense can be deferred as it is not essential. There are ways to entertain for free like libraries, parks and other free activities.

Clothing is definitely a need, but in a time of crisis, you may be able to defer the cost of clothing until you are able to recover.

Making Hard Decisions

Always, always, always pay your rent or mortgage first. Pay credit cards last if you have to (just be sure to contact the credit card companies before you stop paying).

What is the worst thing that can happen to you if you stop paying your credit card bills? Yes, your credit score will drop, but that's probably already happened if you cannot make some of your payments. So, that should not factor into your decision. A foreclosure or eviction will be much worse than not paying your credit card bills. Never let a credit card company essentially throw you out of your home. Protect your home and your family by paying that bill first. This includes having electricity/gas/water. Some utility companies offer hardship programs that may be able to help.

Split payments

Many people find themselves in the split payment situation. Let's say you have \$100 left to put towards bills. Both your phone bill and your cable bill are \$100. Is it better to send each company \$50 or to send one company the full \$100 and nothing to the second company?

It's better to pay all of one and none of the other. That way, you are only delinquent with one company instead of two. The only exception to this would be if both companies give you permission in writing for partial payments.

When making decisions about who should take priority, consider:

- 1. Will this affect my ability to maintain a home for my family?** Obviously, not paying rent could jeopardize your living situation, but not paying utilities could also have some dramatic results.
- 2. Will this affect my ability to maintain employment?** Having transportation to and from work is important if you are to maintain your employment. If you cannot pay for your own transportation, do you have a ride share or back up to ensure that your employment is secured?
- 3. Will this impact my health?** Not eating definitely will impact your health, but so can not maintaining your prescriptions. Without a healthy you, there is no one to bring home the paycheck to maintain the other priorities in your life.
- 4. Will this affect my credit score?** Some creditors report payments to the credit reporting agencies but others do not report until the bill is late (negative reporting only). You want to minimize the impact to your credit report when selecting between payments.

Communicating with Creditors

When people get loans, they almost always intend to pay them back; but sometimes things happen which prevent payment.

Communication is Key

Be proactive! Contact the creditor(s) before they contact you.

- Be calm and honest.
- Many creditors want to help you. It is very expensive for the creditor to repossess your car or house. They don't want to do this. It's better for everyone to work out a repayment plan. Tell them you want to pay, but your first priority during this time of crisis is to feed and shelter your family.
- Document the time and date of the call and the name of the representative who spoke with you.

Prior to contacting your creditor, it is wise to have a written plan. Here are some suggestions you may want to include:

1. Acknowledge that you know you owe them money. This communicates your intent to take responsibility.
2. Let them know you have run into a problem with your ability to repay. Communicate that you intend for this issue to be temporary.
3. Let them know what actions you are taking to respond to your crisis. (Are you in search of work, budgeting with a lesser income, or navigating some large crisis expense?)
4. Ask them what options might be available to assist you in your time of need.
 - Can you suspend payments for a specific period of time, say two months, to allow you to get back on your feet?
 - Do they have an emergency assistance program?
 - Could your debt be refinanced or reduced?
5. Thank them for taking time to discuss your situation. Respect reduces the possibility of the conversation becoming confrontational.

GET IT IN WRITING ~ make sure any solution which they offer you is in writing via email or letter. Be sure to get the person's name, badge or company ID number and ask if your call has been assigned a case number. Most companies have internal tracking/reporting methods, and having this information will make subsequent calls easier.

Negotiating Tips

Creditors

- **Communicate with creditors calmly, without making impossible promises:** Don't let creditors pressure you into making decisions that will hurt you later. Never agree to a payment plan that requires you to pay a low-priority debt and makes it impossible and/or difficult to pay a high-priority obligations, such as rent, food, and medicine.
- **Counter-offer the creditors' proposal:** Acknowledge the amount the creditor is requesting, and then propose a monthly payment and a payment date that fits your budget. Be willing to negotiate, but be firm in your commitment and avoid overpromising.
- **Understand that postdated checks may be cashed immediately:** If creditors request a post-dated check, be aware that some unscrupulous creditors may cash the check immediately. This may cause NSF fees and delay payments to other creditors. Financial institutions recommend that you do not post-date checks.

Collection agencies

- **Recognize that even collection agencies are open to negotiation:** When possible, resolve the debt before it's sent to a collection agency. Collection agencies will probe for the fastest way to payoff a debt, which is now owed in full. However, most realize a monthly payment is all most people can handle and have some flexibility in setting payments.
- **Learn when to payoff a debt for less than the full amount:** In some situations, it may be beneficial for you to "settle" a debt that has already been sent to collections. This usually applies to situations where the account is already delinquent and so has already damaged your credit report. The opportunity to take this action may arise when the member receives a lump sum of cash, such as a payout in a worker's compensation claim or a substantial tax refund. When debts are settled, you can usually pay a percentage of the amount owed, such as 65 to 80 percent. It's important, however, to get the creditors' written agreement to indicate that the debt has been "settled" or "satisfied" on the credit record. This information will remain on your credit report for seven years and may reduce your credit score, but the creditor will be "off your back" because the debt has been resolved.
- **Be aware that when debts are settled for less than the full amount, the IRS views it as income:** The difference between what's paid and what's owed, or the amount of the debt that is "waived," is considered income at tax time. This income is reported to the IRS on Form 1099C when the amount exceeds \$600.

Letters to Creditors

Letters to creditors should be as brief as possible. The letter should contain 4 elements:

1. An explanation of your situation and what you're doing about it.
2. A statement that you're participating in a financial program *and/or* working with a financial coach.
3. A proposed monthly payment and date. If no payment is currently possible, explain why that's the case and state when you expect to resume making payments.
4. A request to have late and over-the-limit fees waived and the interest rate reduced if your current or proposed payment fails to lower the balance.

Sample Letter

(Insert current date)

Dear (insert name of creditor and/or contact person):

Due to (explain reason), I am unable to make my payments on my (insert loan type) as arranged. I am currently working with a financial counselor at (insert program name) to create a budget, spending plan, and debt repayment plan. I am unable to make a payment on this loan at this time. I expect to resume making payments on (insert date).

-OR-

I am unable to make the full loan payment at this time and on the specified date. I will be making a "good faith" payment of (insert amount) on the (insert day) of the month, starting in (insert name of month).

I am asking to have late and over the limit fees waived and the interest rate reduced on this loan since I am unable to lower the balance by making the current minimum payment.

Sincerely,
(insert name and address)

Your Rights and Responsibilities with Collectors

Rights:

You have the right to be treated fairly by debt collectors. The Fair Debt Collection Practices Act (FDCPA) applies to personal, family and household debts including car payments, medical debt or charge accounts. Collectors must comply with the following fair debt collection practices:

- Contact you only between 8 a.m. and 9 p.m.
- Not contact you at work if your employer disapproves
- Not harass, oppress or abuse you
- Not lie when collecting debt such as falsely implying you have committed a crime
- Must identify themselves to you on the phone
- Must stop contacting you if you ask them to do so in writing

Collectors are trained to evoke strong emotion to make you fearful or angry. If they are rude, don't tell them to stop calling. Warn them you will talk to them when they calm down. Ask them to call back another time, and hang up.

If you use a cease and desist letter, all negotiations stop and any hope of positive resolution is lost. The creditor will likely then pursue legal actions through the courts to collect the debts.

Responsibilities:

You are responsible to pay your debts and to correct any errors on your credit report by disputing the information on the report.

Remember:

- No third party collector may access a bank account or garnish wages without court action
 - Exception: governments and financial institutions may initiate actions for collecting their own debts without a court order
- A third party collector's job is not to help your overall situation; their only job is to satisfy the debt
- These collectors are trained salespeople or telemarketers
 - They are typically low paying jobs with high turnover (85%)
 - They are taught in their training to evoke strong emotion to make you fearful or angry
- *Validation of debts.* Collectors must present written proof of the debt within five days of communicating with the consumer. The written notice must include a statement that you have 30 days to dispute the debt before it's considered valid by the collector. If you dispute the debt, the collector must provide written verification of the debt or judgment.
- *Legal actions by debt collectors.* The FDCPA specifies where legal action must take place, which may be based on your residence, the location of the real property, or the place where the contract was signed.

Halting Creditor Calls

Creditor calls are often a huge source of anxiety. Here are eight ways to stop creditor calls. Some are relatively simple and others may require assistance from an outside resource.

1. Head off calls before they happen. Call or write the creditor to explain your situation and what you're doing about it. Don't promise more than you can reasonably achieve. Be polite and honest. Remember, calling the creditor now can prevent the debt from being referred to a collection agency, where more aggressive collection tactics may be applied.
2. Send a "cease letter" to the creditor. The cease letter requests the creditor to stop calling you. The FDCPA requires creditors to stop making collection calls if they receive this type of written request. This law does not apply to creditors collecting their own debts; however, many of them will honor such requests.
3. Complain about billing errors. When a collection letter contains errors, write to request a correction. Most collection agencies will stop their collection efforts while they investigate the bill.
4. Ask your lawyer to send a letter. While a "cease letter" sometimes fails to stop creditors from calling, a letter from a lawyer usually carries more weight. The FDCPA requires collection agencies to stop contacting you if they know you're represented by a lawyer. Make sure the lawyer is responding to the agency's inquiries, though.
5. Create an agreement to work out the debt. If you work out a payment plan with collectors, they will typically stop calling you. Counteroffer or use negotiating skills to keep the payment plan reasonable so you can afford to fulfill it.
6. Complain to a government agency. State and federal government agencies are charged with enforcing legislation designed to protect you from harassment or abuse. At the federal level, the FTC is charged with enforcing the FDCPA. Complaints may be filed online at the FTC's website (www.ftc.gov). At the state level, contact the state agency responsible for regulating collection activities and/or protecting consumers. Consumer Protection HOTLINE Toll free in Virginia: 1.800.552.9963.
7. Sue the debt collector for illegal conduct. Unfortunately, abusive collectors exist. A three-step process can be used to call them to account for their actions.
 - 1) First, document the repeated abusive behavior. You should keep a written log of all calls from the collection agency. The log should include the collector's name, date, and time of the call, and statements made by the collector.
 - 2) Second, write to the original creditor to explain the problem. Send a copy of the letter to the FTC, the appropriate state regulator, and the collection agency.
 - 3) If the problem continues, you can sue the collection agency in small claims court. If the judge rules in your favor, you can recover up to \$1,000 for any violation of the FDCPA.
8. When all else fails, consider filing bankruptcy. Filing papers for personal bankruptcy triggers an "automatic stay" that stops all collection activity. However, this step should never be taken lightly because filing for bankruptcy will remain on your credit history for up to 10 years, even if the case is dismissed before completion. Bankruptcy should always be viewed as a last resort for dealing with severe financial problems.

Garnishments

If negotiations have failed, you may be facing some type of legal action. Even at this point, you still have options. If your creditors do not receive payment, they may go to court to get a judgment. You have 10 days after the judgment is issued to make payment arrangements or pay in full before a wage garnishment or levy can be obtained.

This step takes a lot of time, but it is definitely not something to be ignored. If you do not appear on the court date established, the creditor will receive a "default judgment." If the court finds in favor of the creditor, they will try to collect one of these ways:

Wage garnishment: Most creditors cannot get a wage garnishment order until they have first obtained a court judgment stating that you owe the creditor money. For example, if you are behind on credit card payments or owe a doctor's bill, those creditors cannot garnish your wages (unless they sue you and get a judgment).

If the court has ordered garnishment, your employer has to send the money to the court where the garnishment was obtained. The employer is not supposed to send money directly to the creditor as the courts have no record of the monies received. The garnishment is only good for six months; if not paid in full, the creditor must petition the court again.

- There are some exceptions to this rule. Your wages can be garnished without a court judgment for unpaid income taxes, child support or child support in arrears and defaulted student loans.
- There are three key points to remember about wage garnishment:
 - Federal law limits garnishment of wages to 25 percent of disposable income.
 - Child support judgments can take 50 percent or more of take-home pay.

Exemptions to garnishment: Exemptions to garnishments are typically listed on the back of the legal forms issued as part of garnishment orders.

- In many states, individuals may be exempt if they receive social security payments or certain forms of government assistance, including energy assistance, food stamps, housing assistance, or aid from programs aimed at infants and young children.
- Some states grant exemptions or reduce the amount of garnishment if household income is below federal poverty levels.
- Some states also reduce garnishment if the individual is paying child support.
- Some types of garnishments are not subject to exemptions. These include child support, alimony, some forms of bankruptcy, and unpaid federal or state taxes.

Limits on garnishment:

In Virginia, the most that can be garnished from your wages is the lesser of:

- 25% of your disposable earnings OR
- The amount by which your disposable earnings exceed 40 times the federal minimum hourly wage (currently \$7.25/hour)

Example. You take home \$700 per week after taxes. 25% of your disposable earnings is \$175, and your disposable earnings less 40 times the federal minimum wage is \$410. Your creditor can garnish up to the lesser amount, or \$175. Thus, \$525 of your take home pay is protected under the Virginia garnishment laws.

More Legal Actions

Levies: These are used to take control of bank accounts. Unlike a wage garnishment, where the court order is typically limited to a specific percentage of income, a levy can be used to claim the full amount of the account.

Repossession: Creditors have the legal authority to repossess a vehicle as soon as a "default" occurs on a loan. Examples include:

- A missed payment, which includes payments that are even a single day late in many states.
- Lack of insurance, which occurs when the owner fails to obtain insurance to protect the collateral.
- Title problems are created by a person's use of the vehicle or other circumstances. An example is a vehicle impounded by legal authorities because it was used for illegal activity.

Avoiding Repossession:

- While some lenders will act quickly to repossess cars, others prefer to work with borrowers to obtain repayment. Lenders would always rather have a payment than the vehicle. You can use these steps to prevent repossession.
 - *Cure the default.* Curing the loan means repaying the past due amount. Negotiate a workout. Many lenders offer extensions on vehicle loans or offer opportunities to "catch up" on past due amounts. You should be proactive in contacting the lender and offering potential solutions. Factors to consider when weighing your decision include how much the car is currently worth, how much you've already paid, and the risk of owing an additional balance, or "deficiency," if the car is repossessed.
 - *Sell the car.* Selling the car is always a good idea when you cannot afford to pay the loan. Selling the car is likely to require you to make adjustments, such as driving a less expensive car or moving to new housing that's close to public transportation or close enough to walk to work or ride a bicycle instead.
 - *Voluntarily surrender the car.* This is when you return the car to the lender. When a vehicle is voluntarily surrendered, make sure it's returned to the lender intact and clean so they can, in turn, sell it for as much as possible. You will still be responsible for the deficiency balance, but many lenders are willing to accept small monthly payments for this amount.

Foreclosure: This action may be taken by a creditor to recover a debt that was secured by real estate by taking possession of the mortgaged property. There are many different ways to avoid foreclosure, all of which are detailed in your Participant's Guide on Page 16.

When all else fails, many people consider **bankruptcy**. This should ALWAYS be the very last option you explore because the effects are long-lasting and not all debt will be excused (see Participant's Guide, page 17-18).

Workout Options to Avoid Foreclosure

Financial institutions do not want to foreclose on your home. It is a time-consuming, complex and unpleasant process for everyone involved. Therefore, most lenders look for ways to keep you in your home. There are often several options available. The easiest way to avoid foreclosure is to make all your payments on time. Other options include:

- **Reinstating the loan by bringing it current:** A reinstatement or repayment plan might be used if you have fallen behind on your mortgage payments but can begin making your monthly payments on time again. Under this option, your lender increases the regular monthly payment until the delinquency is repaid.
- **Partial Mortgage Insurance Advance Claim Payment:** This option may be available if you have mortgage insurance on your home. In these cases, a one-time payment is made by your mortgage insurer to your lender to cover all or a portion of your past due amount. You will have to pay the insurer back, either when you're back on your feet or, at the very latest, when you sell the home.
- **Forbearance agreement:** This is a repayment plan based on your financial situation that may include a temporary reduction or suspension of payments for a specific time. A forbearance agreement is usually used if you've had a reduction in income or an increase in expenses and the situation is not expected to be permanent.
- **Refinancing the mortgage:** If you have enough equity in your home, you may be able to refinance and lower your monthly payments.
- **Mortgage loan modification:** This is when the mortgage lender does a debt refinancing and/or extension in the term of the mortgage loan to allow you to catch up by reducing the monthly payments to a more affordable level. Modifications can include lowering interest rates, adding payments to the end of the loan term, extending the term of the loan, paying off small amounts of the past due amount each month, adding a lump sum payment due at pay-off, or simply lowering payments for a set time.
- **Loan assumption:** The lender may agree for a qualified borrower to assume responsibility for repayment of the mortgage. In this situation, you lose any equity in the home.
- **Pre-foreclosure or short sale:** Sometimes a lender will agree to accept whatever they can sell the house for as payment for the loan. Short sales usually take a lot of time because so many people have to approve before the sale closes. There may be some tax consequences as well, so if you take the option you should contact a tax professional when filing your taxes.
- **Deed-in-lieu of foreclosure:** This is when you voluntarily deed the property to the lender to avoid a lengthy foreclosure, additional accrued interest and expenses.
- **Reverse mortgage:** Allows you to borrow against the equity in your primary residence. No repayment is due until you move, sell the home, or death occurs. Reverse mortgages may have large fees and should be given careful consideration before obtaining one. While they sound good on the surface, there are a lot of stipulations. For example, you must:
 - Be over age 62
 - Have considerable equity in your home
 - Attend counseling by an approved HUD agency

Types of Bankruptcy

There are several types of bankruptcy which individuals or married couples can file, the most common being Chapter 7 and Chapter 13.

It is a good idea to evaluate your options before deciding to file for bankruptcy. Consider the types of debt you have and the goals you want to achieve by filing for bankruptcy. A bankruptcy doesn't eliminate certain types of debt. Bankruptcy may not be in your best interest if your goal is to wipe out debts that can't be discharged.

Both chapter 7 and chapter 13 bankruptcy have certain eligibility requirements. To qualify for Chapter 7 Bankruptcy, your income must be low enough to pass the bankruptcy means test. To be eligible for Chapter 13 Bankruptcy, the amount of your debts must not exceed certain dollar limits.

Chapter 7 Bankruptcy (debt cancellation):

In chapter 7 bankruptcy, the bankruptcy trustee cancels many (or all) of your debts. At the same time, the trustee might also sell (liquidate) some of your property to repay your creditors.

The chapter 7 bankruptcy process takes about four to six months, costs \$335 in filing and administrative fees, and commonly requires only one trip to the courthouse. You must also complete credit counseling with an agency approved by the United States Trustee.

- Under chapter 7 bankruptcy, your debts are discharged and you are no longer responsible for repaying them. Some of your assets may be sold by a court-appointed bankruptcy trustee. The proceeds go towards paying the trustee, covering administrative fees and, if funds allow, repaying your creditors as much as possible.
- You are allowed to keep key assets, but property exemptions vary from state to state. You may choose to follow either state law or federal law, which may allow you to keep more possessions.
- Under federal law, you are typically entitled to \$16,500 in equity in your home and \$2,575 equity in your car, as well as certain less valuable items like household items and job-related tools. If you jointly file as a married couple, these amounts double.
- You also retain your right to receive pension, Social Security, unemployment, veteran benefits and welfare.

Chapter 13 Bankruptcy (debt repayment):

In chapter 13 bankruptcy, you keep your property, but pay back all or a portion of your debts over a three to five year period.

- A chapter 13 bankruptcy involves repaying some of your debts to have the rest forgiven. This is an option for people who do not want to give up their property or do not qualify for chapter 7 because their income is too high.
- People can only file for bankruptcy under chapter 13 if their debts do not exceed a certain amount. The specific cutoff is reevaluated periodically, so check with a lawyer or credit counselor for the most up-to-date figures.
- Under chapter 13, you must design a three to five year repayment plan for your creditors. The remaining debts are erased once you successfully complete the plan.
- If the repayment plan is not successfully completed, debtors may then choose to pursue a chapter 7 bankruptcy instead. If they don't, creditors then can resume their attempts to collect the full owed balance. Note: there are time limits related to when you can file for a chapter 7 bankruptcy after having filed for a chapter 13. Seek legal counsel before pursuing these actions.

The Downside of Bankruptcy

Filing bankruptcy has many consequences.

- You could lose personal property or assets. Depending on your assets, a court-appointed bankruptcy trustee may review your situation and decide there is a need to sell some personal property or assets to repay creditors.
- Bankruptcy does not mean you can stop paying on secured assets such as a home or an automobile. If these payments aren't made, then creditors may foreclose or repossess the property.
- Bankruptcy is reported on a credit report for up to 10 years and negatively impacts the credit score, making it more difficult and expensive to obtain new credit, rent an apartment, buy a car or insurance, and possibly even limit future job opportunities.
- There is a possibility that some credit cards may be cancelled or interest rates increased.
- Some utility and phone companies, as well as providers of other goods and services, may be reluctant to extend credit to somebody who has filed for bankruptcy. They may demand payment in advance or require a higher deposit.

Debts That Are Not Discharged During Bankruptcy

In general, these debts are not discharged in chapter 7 and 13 bankruptcies; however, courts may make exceptions in special circumstances:

- Recent taxes
- Child support
- Alimony
- Student loans
- Debts related to a death or injury caused by the debtor's unlawful operation of a vehicle due to intoxication
- Criminal fines or restitution
- Credit obtained under fraud or false pretenses
- Debts greater than \$500 for luxury goods or services incurred by the debtor on or within 90 days of bankruptcy
- Cash advances on an open-end credit plan, including a credit card, of more than \$750 within 90 days of filing bankruptcy
- Restitution or damages for willful and malicious injury by the debtor to another.

Alternatives to Bankruptcy

- **Self-Administered Budget and Repayment:** You design and follow a disciplined budget to address both current income and expenses and a plan for repaying your debt on your own.
- **A Debt Management Plan:** You work with a licensed, non-profit credit counseling agency to develop an acceptable and workable repayment plan with your creditors. You make regular payments to the credit counseling agency, which disburses the funds to each creditor. Creditors often will accept smaller payments, reduce interest rates and eliminate late fees. Be cautious of non-licensed, for-profit companies offering these services!
- **Negotiated Debt Settlement:** You may be able to negotiate directly with creditors to pay a lesser amount than what you owe. Make sure you get a signed, written agreement that says the creditor will inform the credit reporting agencies that it has received "payment in full" or "settled as agreed" so a notation can be made on your credit report. Debt settlements may have tax consequences. The difference between the original debt and the reduced settlement payment may be considered taxable income, so you should contact your attorney or an accountant before filing your taxes.
- **Home Equity and Home Refinance Loans:** If you have any equity in your home, you may be able to get a home equity loan or line of credit. Keep in mind that if you default on a home equity loan or line of credit, you could lose your home to foreclosure, so you should be absolutely certain you can make the payments before adopting this strategy.

Financial Abuse and Exploitation

Financial abuse can be a form of domestic violence. The aim of the financial abuse, as well as other forms of abuse, is to gain power and control in a relationship. Financial abuse along with emotional and physical abuse, manipulation, intimidation and threats are all aimed at getting and maintaining control over another person. The purpose is to trap them in the relationship.

Some common tactics include:

- Controlling how money is spent
- Withholding money or giving an allowance
- Withholding basic living resources
- Not allowing a partner to work
- Stealing partners identity
- Justifying behavior as cultural

What do you do?

- Seek help through 2-1-1 Virginia or local social services agencies
- Evaluate your personal confidence level regarding finances
- Gain information about your assets and liabilities
- Begin saving money immediately
- Seek financial independence

Note: Financial abuse often begins subtly and progresses over time. Please see your coach or instructor for more information if you find yourself or a family member in this situation. They can help.

The elderly can also be victims of financial abuse or exploitation. Frequently, their abilities are diminished and they need to depend on others for assistance. Because people over age 50 control 70% of the nation's accumulated wealth, they are attractive targets for abuse. In Virginia, there are criminal penalties that can result for financial abuse of seniors or those with limited mental capacity.

Signs that someone may be a victim of elder abuse may be:

- Unpaid bills, eviction notices, or notices to discontinue utilities
- Withdrawals or unusual activity in bank accounts that are not explained
- Bank statements and cancelled checks no longer come to the home
- New "best friends"
- Legal documents, such as powers of attorney, which the older person didn't understand
- Absence of documentation about financial arrangements
- Missing belongings
- Suspicious signatures on checks or other documents

Report elder abuse to Adult Protective Services and the Police.

Post-Test

1. **Levies are used to take control of accounts. Unlike a garnishment, levies can be used to claim:**
 - a. The full amount of money in your accounts
 - b. Money from your relatives
 - c. Your tax refunds

2. **If you declare bankruptcy, which debts may not be excused?**
 - a. Child support
 - b. Student loans
 - c. Criminal fines or restitution
 - d. All of the above

3. **The aim of financial abuse is to:**
 - a. Protect assets from being taxed
 - b. Gain power and control in a relationship
 - c. Maintain a certain cultural behavior
 - d. Avoid financial crisis

4. **Alternatives to filing bankruptcy include: (Choose all that apply)**
 - a. Refinance your mortgage or get an equity line of credit
 - b. Settle debt with creditor
 - c. Move to another state so they can't collect
 - d. Debt Management Plan
 - e. Ignore the debt and see what happens

5. **If a creditor agrees to settle your account for less than you owe, the difference between what's paid and what's owed, or the amount of the debt that is "waived," is considered :**
 - a. A lucky break
 - b. Unresolved debt and needs to be paid later
 - c. Taxable income
 - d. Foreclosure

Glossary

Bankruptcy ~ a legal proceeding involving a person or business that is unable to repay outstanding debts.

Chapter 7 ~ bankruptcy action in which assets are liquidated and distributed to creditors in satisfaction of debts. Your debts are discharged, and you are no longer responsible for repaying them.

Chapter 13 ~ bankruptcy action in which you keep your property, but pay back all or a portion of your debts over a three to five year period.

Collection agency ~ a firm that collects unpaid bills for other organizations and is usually compensated by receiving a percentage of the amount collected.

Creditor ~ a person to whom money is owed; also known as a lender.

Debtor ~ a person who is in debt or under financial obligation to another.

Default ~ failure to meet financial obligations.

Disposable Earnings ~ wages left after your employer has made deductions required by law.

The Federal Fair Debt Collection Practices Act ~ passed in 1977 to protect you from unfair collectors; applies only to third-party "debt collectors" or collection agencies, and does not apply to original creditors.

Financial abuse ~ used to gain power and control in a relationship.

Foreclosure ~ action taken by a creditor to recover a debt that was secured by real estate.

Judgment ~ a decision by a court that describes the rights and obligations of both parties in a lawsuit.

Levy ~ type of judgment that allows creditors to take control of a debtor's bank accounts. Unlike a wage garnishment, where the court order is typically limited to a specific percentage of income, a levy can be used to claim the full amount of the account.

Repossession ~ regain possession of, especially for nonpayment of money due.

Settle ~ to agree upon, as in a payment amount.

Waived ~ to put aside or dismiss.

Wage garnishment ~ a court order that requires a debtor's employer to withhold money from the debtor's paycheck.