

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEBRASKA

Consumer Pro-Se Debtor Guide

Revised November 7, 2003

**THE CLERK'S OFFICE IS PROHIBITED BY 28 U.S.C. SECTION 955 FROM GIVING LEGAL
ADVICE OR ASSISTING WITH THE PREPARATION OF FORMS.**

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Consumer Pro-Se Debtor Guide

This guide has been put together to answer some of the most often asked questions of the clerk's office staff by debtors filing bankruptcy pro-se (without legal representation). This guide is in no way intended to advise you of your legal rights or responsibilities under bankruptcy or to inform you on which chapter to file. The bankruptcy law is complicated and not easily described, and you should, if possible, seek the advice of an attorney. Please see the next page to inquire about legal assistance.

The excerpts from the Bankruptcy Court's Local Rules are provided to make you, as a pro-se debtor, aware of rules you should closely follow. A copy of the Bankruptcy Court's Local Rules can be obtained at either of the Bankruptcy Court locations or through our internet address. We have also included information provided by the Office of the U.S. Trustee regarding the possible consequences of filing a bankruptcy petition under Chapter 7.

If you do decide to file bankruptcy without the benefit of counsel or use of a document preparation service, be aware that a "bankruptcy petition preparer," as defined in 11 U.S.C. section 110, is subject to strict regulations which include requirements that the preparer sign any papers prepared on behalf of the debtor, include identification of the individuals who prepared the papers and furnish the debtor with a copy of the documents prepared.

The clerk's office is prohibited by 28 U.S.C. Section 955 from giving legal advice or assisting with the preparation of forms.

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We may not refer you to any individual attorney and are not permitted to give you legal advice of any nature. We suggest you call any one of the following to inquire about legal assistance.

NEBRASKA LEGAL SERVICES

The service provided by Nebraska Legal Services is **free upon qualification** by calling the access line: (877) 250-2016 English, (877) 669-8898 Espanol. Locations and alternate phone numbers are listed below. The debtor is responsible for the cost of the filing fee.

941 "O" St., Ste. 825
Lincoln, NE 68508
(402) 435-2161
(800) 742-7555

500 S. 18th St.
Omaha, NE 68102
(402) 348-1060

214 N. 7th St., Ste. 10
Norfolk, NE 68701
(402) 644-4761

1423 1st Ave.
Scottsbluff, NE 69363
1-877-250-2016
Mon.-Thurs. 9:00-3:00
Friday 9:00-12:00

209 North Locust St.
Grand Island, NE 68802
1-877-250-2016
Mon.-Thurs. 9:00-3:00
Friday 9:00-12:00

300 East 3rd St., Ste. 308
North Platte, NE 69101
1-877-250-2016
Mon.-Thurs. 9:00-12:00
Friday 9:00-12:00

PO Box 325
Bancroft, NE 68004
(402) 648-3457
(800) 729-9908

UNIV. OF NEBRASKA LAW COLLEGE

103 Law
PO Box 830902
Lincoln, NE 68583-0902
(402) 472-3271
A \$15.00 administrative fee is charged.
Debtor is responsible for cost of filing fee.

NEBRASKA STATE BAR ASSOC.

Lawyer Referral Service
635 S. 14th St.
PO Box 81809
Lincoln, NE 68501-1809
(402) 475-7091
(800) 927-0117

**UNITED STATES BANKRUPTCY COURT
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OMAHA

U. S. Bankruptcy Court
District of Nebraska
Diane L. Zech, Clerk
Eva B. Roeber, Chief Deputy
Roman L. Hruska Courthouse
111 S. 18th Plaza, Ste. 1125
Omaha, NE 68102

(402) 661-7444

LINCOLN

U. S. Bankruptcy Court
District of Nebraska
Cheryl A. Oliver, Deputy-In-Charge
100 Centennial Mall North
460 Federal Building
Lincoln, NE 68508

(402) 437-5100

INTERNET ADDRESSES

www.neb.uscourts.gov

-website for the U.S. Bankruptcy Court, District of Nebraska

www.uscourts.gov/bankform

-contains the necessary forms for filing bankruptcy

www.uscourts.gov/publications.html

-contains information on the various chapters of bankruptcy

www.13law.com

-contains information specific to chapter 13 bankruptcies

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Most Commonly Asked Questions

1. *Question:* Where do I get the forms to file bankruptcy?

Answer: You may obtain the forms from the internet at <http://www.uscourts.gov/bankform> or an office supply store that sells blank legal forms and documents. The clerk's office does not supply such forms.

2. *Question:* Why can't you give me advice on how to file bankruptcy or what chapter I should file?

Answer: 28 U.S.C. Section 955 prohibits the staff of the clerk's office from giving legal advice or assisting with the preparation of the forms. We are not attorneys.

3. *Question:* When am I under bankruptcy protection?

Answer: You are under bankruptcy protection when and after your petition is time stamped by a member of the clerk's office staff or other official of the court. A case number is assigned at this time.

4. *Question:* How does bankruptcy affect my credit rating?

Answer: A credit rating is a matter governed by state law, not federal bankruptcy law. Affects of filing may differ from creditor to creditor. See the information on the Fair Credit Report Act on page 18.

5. *Question:* Why do I have to pay a fee to file for bankruptcy?

Answer: Federal Statute, 28 U.S.C. Section 1930, requires a fee to file a bankruptcy petition. However, Rule 1006 does allow for the payment of the filing fee in installments.

6. *Question:* How can I pay in installments?

Answer: An application to pay filing fee in installments can be filed with the bankruptcy petition and approved by the court. The total filing fee is due within sixty (60) days from the date of filing of the petition. An application to pay filing fee in installments is attached for you to review, however, the forms you purchased should include an application as well.

7. *Question:* If my case is dismissed or I change my mind about filing, will my filing fee be refunded?

Answer: Filing fees are non-refundable.

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Most Commonly Asked Questions cont'd.

8. *Question:* How long does it take for my creditors to be notified that I have filed bankruptcy?

Answer: The creditors listed on your matrix are notified by the court within 7-10 days of your filing.

9. *Question:* How do I add a creditor to my petition that has already been filed?

Answer: You may file an amendment to your schedules. Please refer to the fee schedule provided to determine the amount owed for the amendment. The amendment should be in pleading form (meaning the page should be entitled "U.S. Bankruptcy Court, District of Nebraska" at the top and also list the case name and number). The pleading should clearly state what is being added and/or changed.

10. *Question:* How long does it take to get a discharge?

Answer: Each case is different. It depends on the case, the creditors involved and the trustee. The case cannot be discharged until after the deadline for filing objections to the discharge has passed.

11. *Question:* Will all of my creditors be notified of my discharge?

Answer: All creditors who were listed in your schedules or added by amendment to your schedules will be notified.

12. *Question:* When my case is discharged, is my case complete?

Answer: No, your case is not complete until it is closed by the court. The case is usually closed shortly after the discharge unless the trustee has made the determination that there are assets to distribute or an objection to discharge has been filed.

13. *Question:* Who has access to my file?

Answer: All of our files are public record.

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Chapter Information

Chapter 7: Liquidation of Available Assets \$200.00

Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts.

Under Chapter 7, a trustee takes possession of all of your property. You may claim certain property as exempt under governing law. The trustee then liquidates the property and uses the proceeds to pay your creditors according to priorities of the Bankruptcy Code.

Chapter 11: Business Reorganization \$830.00

Chapter 11 is designed primarily for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision for an individual to file a Chapter 11 petition should be reviewed with an attorney. It is extremely unlikely that a non-attorney would be able to successfully represent a debtor in a Chapter 11 case, and such a case would almost certainly be dismissed or converted to a Chapter 7.

**Chapter 12: Adjustment of Debts of a Family
Farmer with Regular Income \$230.00**

Chapter 12 is designed for individuals who are farmers but are temporarily unable to pay their debts and would like to repay them in installments over a period of time. Chapter 12 is only for small business farmers and is not intended to cover agribusiness.

Under Chapter 12, you must file a plan with the court to repay your creditors all or part of the money you owe them using future earnings. The period allowed by the court to repay your debts is usually three (3) years, but not more than five (5) years. This plan must be approved by the court before it can take effect.

**Chapter 13: Repayment of All or Part of the Debts of an
Individual with Regular Income \$185.00**

Chapter 13 is designed for individuals with regular income who are temporarily unable to pay their debts but would like to pay them in installments over a period of time. You are only eligible for Chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

Under Chapter 13, you must file a plan with the court to repay your creditors all or part of the money that you owe them, using your future earnings. Usually, the period allowed by the court to repay your debts is three (3) years, but not more than five (5) years. Your plan must be approved by the court before it can take effect.

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Petition Filing Requirements per Local Rule 1002-1:

A. Specific Requirements of Content of Voluntary Petition

1. The petition shall conform to the Official Bankruptcy Forms which can be purchased at various office supply stores or by accessing our internet address.
2. If the debtor is a corporation, attached to the petition shall be a certified copy of the corporation action authorizing the filing of the petition.
3. The petition shall include the tax identification numbers used by a corporation, a partnership, an individual, and by a sole proprietorship, if different from the individual tax identification number.

B. Copies: The court requires only the original of any filing.

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Miscellaneous Petition Filing Requirements by the Court:

- It is very important to retain your bankruptcy papers. Copies can be obtained through the court later, but at an expense to you.

- Assembling your paperwork should entail the petition page on top and then the signed signature page. All other schedules and statements can be stapled to the back of the petition and signature page.

- Schedules can either be filed with the petition or within fifteen (15) days of filing the petition.

- Personal checks from the debtor are not accepted. We can accept cash, money orders or a check from someone other than the debtor.

*****It is required that you bring in the exact amount due if paying by cash.**

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Matrix Filing Requirements per Local Rule 1007-2:

A. Filing Matrix

1. **Each voluntary petition must be accompanied by a list of creditors, lessors and interest holders set forth in alphabetical order (the "Matrix").** The matrix shall include the mailing address and zip code for each creditor and shall be typewritten in a format approved by the Clerk of the Bankruptcy Court.
2. In all Ch. 7, 12 and 13 cases, the IRS shall be listed only if debtor believes a tax is owing. In all Ch. 11 cases, whether or not the IRS is known to be a creditor, the IRS shall be listed on the matrix at the address shown on Appendix "A" to this guide.
3. In all cases, where the Nebraska Dept. of Revenue is known to be a creditor and in all Ch. 11 cases, whether or not the NE Dept. of Revenue is known to be a creditor, the NE Dept. of Revenue shall be listed on the matrix at the address shown on Appendix "A" to this guide.
4. In all cases, the county attorney and county treasurer from the county in which the debtor resides, shall be listed on the matrix.

Miscellaneous Matrix Filing Requirements by the Court:

- The matrix must be filed with the petition on the date of filing.
- Lists must be typed in one of the following standard typefaces or print styles: Courier 10 pitch, Prestige C Elite or Letter Gothic. Avoid use of a boldface setting.
- Lists should be typed on a single page in a single column (rather than in three columns) with a double space between each creditor **(a sample is shown on the next page)**.
- DO NOT include the debtor, joint debtor or the attorney for debtor's name (if applicable) on the matrix since they are automatically added by our system.
- Avoid any extra marks on the list such as letterhead, dates, debtor's name, coffee stains or handwritten marks. Also, avoid non-standard paper such as onion skin, half-sized paper or colored paper.

Rentrax
PO Box 18888
Portland OR 97218

Yellow Pages
PO Box 2775
McAllen TX 78502

Software Solutions
751 North Lincoln
Fremont NE 68025

Sight & Sound
2055 Walton Road
St. Louis MO 63114

Brentwood Bank
8004 South 48th St.
LaVista NE 68128

AI Thrower
406 Lawrence Lane
Bellevue NE 68005

US West Communications
PO Box 737
Des Moines IA 50338

TMC Long Distance
7000 West Center Road
Ste. 402
Omaha NE 68106

Omaha Public Power
444 So. 16th St. Mall
Omaha NE 68102

Sarpy County Treasurer
Courthouse
Papillion NE 68046

Sarpy County Attorney
Courthouse
Papillion NE 68046

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U.S. as a Creditor or Party per Local Rule 2002-3:

- A. If one or more of the following departments or agencies of the U.S. is a creditor, the schedule of liabilities and the matrix shall list such departments or agencies at the address indicated on Appendix "A" to this guide.
1. Dept. of Agriculture (for Commodity Credit Corp and Farmers Home Administration: also list the Directors as set forth in Appendix "A")
 - a. FSA/Commodity Credit Corp. (CCC)
 - b. Farmers Home Administration
 2. Dept. of Education
 3. Dept. of Health & Human Services (HHS)
 4. Dept. of Housing & Urban Development (HUD)
 5. Internal Revenue Service (IRS)
 6. United Postal Service
 7. Small Business Administration (SBA)
 8. Veterans Administration (VA)

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Statement of Information Required by 11 U.S.C. § 341

Introduction

Pursuant to the Bankruptcy Reform Act of 1994, the Office of the U.S. Trustee, U.S. Department of Justice, has prepared this information sheet to help you understand some of the possible consequences of filing a bankruptcy petition under Chapter 7 of the Bankruptcy Code. This information is intended to make you aware of –

- (1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;
- (2) the effect of receiving a discharge of debts;
- (3) the effect of reaffirming a debt; and
- (4) your ability to file a petition under a different Chapter of the Bankruptcy Code.

There are many other provisions of the Bankruptcy Code that may affect your situation. This information sheet contains only general principles of law and is not a substitute for legal advice. If you have questions or need further information as to how the bankruptcy laws apply to your specific case, you should consult with an attorney.

WHAT IS A DISCHARGE?

The filing of a Chapter 7 petition is designed to result in a discharge of most of the debts you listed on your bankruptcy schedules. A discharge is a court order that says you do not have to repay your debts, but there are a number of exceptions. Debts which may not be discharged in your Chapter 7 case include, for example, most taxes, child support, alimony, and student loans; court-ordered fines and restitution; debts obtained through fraud or deception; and personal injury debts caused by driving while intoxicated or taking drugs. Your discharge may be denied entirely if you, for example, destroy or conceal property; destroy, conceal or falsify records; or make a false oath. Creditors cannot ask you to pay any debts which have been discharged. You can only receive a Chapter 7 discharge once every six (6) years.

WHAT ARE THE POTENTIAL EFFECTS OF A DISCHARGE?

The fact that you filed bankruptcy can appear on your credit report for as long as 10 years. Thus, filing a bankruptcy petition may affect your ability to obtain credit in the future. Also, you may not be excused from repaying any debts that were not listed on your bankruptcy schedules or that you incurred after you filed bankruptcy.

WHAT ARE THE EFFECTS OF REAFFIRMING A DEBT?

After you file your petition, a creditor may ask you to reaffirm a certain debt or you may seek to do so on your own. Reaffirming a debt means that you sign and file with the court a legally enforceable document, which states that you promise to repay all or a portion of the debt that may otherwise have been discharged in your bankruptcy case. Reaffirmation agreements should be filed with the court within 60 days after the first meeting of creditors.

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WHAT ARE THE EFFECTS OF REAFFIRMING A DEBT? cont'd.

Reaffirmation agreements are strictly voluntary - - they are not required by the Bankruptcy Code or other state or federal law. You can voluntarily repay any debt instead of signing a reaffirmation agreement, but there may be valid reasons for wanting to reaffirm a particular debt.

Reaffirmation agreements must not impose an undue burden on you or your dependents and must be in your best interest. If you decide to sign a reaffirmation agreement, you may cancel it at any time before the court issues your discharge order or within sixty (60) days after the reaffirmation agreement was filed with the court, whichever is later. If you reaffirm a debt and fail to make the payments required in the reaffirmation agreement, the creditor can take action against you to recover any property that was given as security for the loan and you may remain personally liable for any remaining debt.

OTHER BANKRUPTCY OPTIONS

You have a choice in deciding what Chapter of the Bankruptcy Code will best suit your needs. Even if you have already filed for relief under Chapter 7, you may be eligible to convert your case to a different Chapter.

Chapter 7 is the liquidation chapter of the Bankruptcy Code. Under Chapter 7, a trustee is appointed to collect and sell, if economically feasible, all property you own that is not exempt from these actions.

Chapter 11 is the reorganization Chapter most commonly used by businesses, but it is also available to individuals. Creditors vote on whether to accept or reject a plan, which also must be approved by the court. While the debtor normally remains in control of the assets, the court can order the appointment of a trustee to take possession and control of the business.

Chapter 12 offers bankruptcy relief to those who qualify as family farmers. Family farmers must propose a plan to repay their creditors over a three-to-five year period and it must be approved by the court. Plan payments are made through a Chapter 12 Trustee, who also monitors the debtors' farming operations during the pendency of the plan.

Chapter 13 generally permits individuals to keep their property by repaying creditors out of their future income. Each Chapter 13 debtor proposes a plan to repay their creditors over a three-to-five year period which must be approved by the bankruptcy court. The debtor must pay the Chapter 13 Trustee the amounts set forth in their plan. Debtors receive a discharge after they complete their Chapter 13 repayment plan. Chapter 13 is only available to individuals with regular income whose debts do not exceed \$1,000,000 (\$250,000 in unsecured debts and \$750,000 in secured debts).

AGAIN, PLEASE SPEAK TO AN ATTORNEY IF YOU NEED FURTHER INFORMATION OR EXPLANATION, INCLUDING HOW THE BANKRUPTCY LAWS RELATE TO YOUR SPECIFIC CASE.

Form 3. APPLICATION AND ORDER TO PAY FILING FEE IN INSTALLMENTS

APPLICATION TO PAY FILING FEE IN INSTALLMENTS

1. In accordance with Fed. R. Bankr. P. 1006,1 apply for permission to pay the Filing Fee amounting to \$ _____ in installments.
2. I certify that I am unable to pay the Filing Fee except in installments.
3. I further certify that I have not paid any money or transferred any property to an attorney for services in connection with this case and that I will neither make any payment nor transfer any property for services in connection with this case until the filing fee is paid in full.
4. I propose the following terms for the payment of the Filing Fee.*
 \$ _____ Check one With the filing of the petition, or
 On or before _____
 \$ _____ on or before _____
 \$ _____ on or before _____
 \$ _____ on or before _____
- * The number of installments proposed shall not exceed four (4), and the final installment shall be payable not later than 120 days after filing the petition. For cause shown, the court may extend the time of any installment, provided the last installment is paid not later than 180 days after filing the petition. Fed. R. Bankr. P. 1006(b)(2).
5. I understand that if I fail to pay any installment when due my bankruptcy case may be dismissed and I may not receive a discharge of my debts.

Signature of Attorney Date

Signature of Debtor Date
(In a joint case, both spouses must sign.)

Name of Attorney

Signature of Joint Debtor (if any) Date

CERTIFICATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION (See 11 U.S.C. § 110)

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document. I also certify that I will not accept money or any other property from the debtor before the filing fee is paid in full.

Printed or Typed Name of Bankruptcy Petition Preparer

Social Security No.

Address

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

If more than one person prepared this document, attach additional signed sheets conforming to the appropriate Official Form for each person.

x _____
Signature of Bankruptcy Petition Preparer

Date

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

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APPENDIX "A"

The following is a list of addresses that may be useful in completing your matrix. Refer to page 9 for matrix filing requirements.

Chapter 13 Trustee
13930 Gold Circle, Suite 201
Omaha, Nebraska 68144

Chapter 12 Trustee
P.O. Box 127 DTS
Omaha, NE 68101-0127

Patricia Dugan
Office of U.S. Trustee
111 S. 18th Plaza, Ste. 1148
Omaha, NE 68102

Nebraska Department of Revenue
Attn: Bankruptcy Unit
P. O. Box 94818
Lincoln, NE 68509-4818

Farm Service Agency
State Executive Director
CCC/Ag Credit (FmHA)
7131 A Street
P. O. Box 57975
Lincoln, NE 68505-7975

USDA Rural Development
State Executive Director
USDA Rural Development
308 Federal Building
100 Centennial Mall North
Lincoln, NE 68508

Department of Agriculture
Office of General Counsel
Department of Agriculture
P. O. Box 419205
Kansas City, MO 64141-0205

U.S. Postal Service
Regional Counsel
U.S. Postal Service
Suite 1480 South
300 Riverside Plaza
Chicago, Illinois 60606-6617

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APPENDIX "A" Cont'd.

Department of Education
Office of General Counsel
400 Maryland Avenue, S.W.
Room 4083
Washington, D.C. 20202

Office of Post-Secondary Education
50 United Nations Plaza Region IX
San Francisco, CA 94102

Department of Health and Human Services (HHS)
Regional Attorney
Department of Health & Human Services
Office of the General Counsel
601 East 12th Street, Room 411
Kansas City, MO 64106

Regional Attorney
Department of HHS - Social Security Division
601 East 12th Street, Room 535
Kansas City, MO 64106

Department of Housing and Urban Development (HUD)
Chief Counsel
Department of Housing & Urban Development
Region VII - Omaha Office
10909 Mill Valley Road
Omaha, Nebraska 68154-3955

Internal Revenue Service (IRS) (Revised 1/23/03)
Internal Revenue Service
Stop 5301
1313 Farnam St.
Omaha, Nebraska 68102

Small Business Administration (SBA)
District Counsel
U.S. Small Business Administration
11145 Mill Valley Road
Omaha, Nebraska 68154

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APPENDIX "A" Cont'd.

U. S. Attorney's Office
1620 Dodge St., #1400
Omaha, Nebraska 68102-1506

U. S. Attorney's Office
100 Centennial Mall North
487 Federal Building
Lincoln, Nebraska 68508

U.S. Attorney General
U.S. Department of Justice
10th and Constitution Avenue N.W., Room B-324
Washington, D.C. 20530

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The Fair Credit Reporting Act

The Fair Credit Reporting Act is the law that controls credit reporting agencies. The law states that credit reporting agencies may not report a bankruptcy case on a person's credit after ten years from the date the bankruptcy case is filed. Other bad credit information is removed after seven years. The larger credit reporting agencies belongs to an organization called the Associated Credit Bureaus. The policy of the Associated Credit Bureau is to remove Chapter 11 and Chapter 13 cases from the credit report after seven years to encourage debtors to file under these chapters.

You may want to contact the Federal Trade Commission, Bureau of Consumer Protection, Education Division, Washington, D.C. 20580, or telephone them at (202) 326-2222 and request the publications "How to Dispute Credit Reporting Errors" and Fair Credit Reporting".

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BANKRUPTCY TERMINOLOGY

Public Information Series of the Bankruptcy Judges Division
December 1998

While the information presented herein is accurate as of the date of publication, it should not be cited or relied upon as legal authority. This information should not be used as a substitute for reference to the U.S. Bankruptcy Code (title 11, U.S. Code) and the Bankruptcy Rules, both of which may be reviewed at local law libraries, or to any local rules of practice adopted and disseminated by each bankruptcy court. Finally, this fact sheet should not substitute for the advice of competent legal counsel. For additional copies of this publication, please contact the Bankruptcy Judges Division, Administrative Office of the U.S. Courts (202) 502-1900.

Most debtors who file bankruptcy, and many of their creditors, know very little about the bankruptcy process. The Public Information Series of the Bankruptcy Judges Division is designed to provide debtors, creditors, judiciary employees, and the general public with a basic explanation of bankruptcy and how it works. The series features eight pamphlets that discuss Chapter 7 (liquidation), Chapter 13 (adjustment of debts of an individual with regular income), Chapter 12 (adjustment of debts of a family farmer), Chapter 11 (reorganization), Chapter 9 (adjustment of debts of a municipality), SIPA (the Securities Investor Protection Act), the bankruptcy discharge, and bankruptcy terminology. This pamphlet on bankruptcy terminology explains, in layman's terms, many of the legal terms that are used in cases filed under the Bankruptcy Code.

adversary proceeding A lawsuit arising in or related to a bankruptcy case that is commenced by filing a complaint with the court.

assume An agreement to continue performing duties under a contract or lease.

automatic stay An injunction that automatically stops lawsuits, foreclosure, garnishments, and all collection activity against the debtor the moment a bankruptcy petition is filed.

bankruptcy A legal procedure for dealing with debt problems of individuals and businesses; specifically, a case filed under one of the chapters of title 11 of the U.S. Code (the Bankruptcy Code).

bankruptcy administrator An officer of the judiciary serving in the judicial districts of Alabama and North Carolina who, like the U.S. Trustee, is responsible for supervising the administration of bankruptcy cases, estates, and trustees, monitoring plans and disclosure statements, monitoring creditors' committees, monitoring fee applications, and performing other statutory duties.

bankruptcy code The informal name for title 11 of the U.S. Code (11 U.S.C. §§ 101 - 1330), the federal bankruptcy law.

bankruptcy court The bankruptcy judges in regular active service in each district; a unit of the district court.

bankruptcy estate All legal or equitable interests of the debtor in property at the time of the bankruptcy filing. (The estate includes all property in which the debtor has an interest, even if it is owned or held by another person.)

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BANKRUPTCY TERMINOLOGY CON'T.

bankruptcy judge A judicial officer of the U.S. district court who is the court official with decision-making power over federal bankruptcy cases.

bankruptcy mill A business not authorized to practice law that provides bankruptcy counseling and prepares bankruptcy petitions.

bankruptcy petition A formal request for the protection of the federal bankruptcy laws. (There is an official form for bankruptcy petitions.)

bankruptcy trustee A private individual or corporation appointed in all Chapter 7, Chapter 12, and Chapter 13 cases to represent the interests of the bankruptcy estate and the debtor's creditors.

business bankruptcy A bankruptcy case in which the debtor is a business or an individual involved in business and the debts are for business purposes.

chapter 7 The chapter of the Bankruptcy Code providing for "liquidation," i.e., the sale of a debtor's nonexempt property and the distribution of the proceeds to creditors.

chapter 7 trustee A person appointed in a Chapter 7 case to represent the interests of the bankruptcy estate and the unsecured creditors. (The trustee's responsibilities include reviewing the debtor's petition and schedules, liquidating the property of the estate, and making distributions to creditors. The trustee may also bring actions against creditors or the debtor to recover property of the bankruptcy estate.)

chapter 11 A reorganization bankruptcy, usually involving a corporation or partnership. (A Chapter 11 debtor usually proposes a plan of reorganization to keep its business alive and pay creditors over time. People in business or individuals can also seek relief in Chapter 11.)

chapter 12 The chapter of the Bankruptcy Code providing for adjustment of debts of a "family farmer," as that term is defined in the Code.

chapter 13 The chapter of the Bankruptcy Code providing for adjustment of debts of an individual with regular income. (Chapter 13 allows a debtor to keep property and pay debts over time, usually three to five years.)

chapter 13 trustee A person appointed to administer a Chapter 13 case. (A Chapter 13 Trustee's responsibilities are similar to those of a Chapter 7 Trustee; however, a Chapter 13 Trustee has the additional responsibilities of overseeing the debtor's plan, receiving payments from debtors, and disbursing plan payments to creditors.)

claim A creditor's assertion of a right to payment from a debtor or the debtor's property.

complaint The first or initiatory document in a lawsuit that notifies the court and the defendant of the grounds claimed by the plaintiff for an award of money or other relief against the defendant.

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BANKRUPTCY TERMINOLOGY CON'T.

confirmation Approval of a plan of reorganization by a bankruptcy judge.

consumer bankruptcy A bankruptcy case filed to reduce or eliminate debts that are primarily consumer debts.

consumer debts Debts incurred for personal, as opposed to business, needs.

contingent claim A claim that may be owed by the debtor under certain circumstances, for ex., when the debtor co-signs on another person's loan and that person fails to pay.

creditor A person to whom or business to which the debtor owes money or that claims to be owed money by the debtor.

debtor A person who has filed a petition for relief under the bankruptcy laws.

defendant An individual (or business) against whom a lawsuit is filed.

discharge A release of a debtor from personal liability for certain dischargeable debts. (A discharge releases a debtor from personal liability for certain debts known as dischargeable debts (defined below) and prevents the creditors owed those debts from taking any action against the debtor or the debtor's property to collect the debts. The discharge also prohibits creditors from communicating with the debtor regarding the debt, including telephone calls, letters, and personal contact.)

dischargeable debt A debt for which the Bankruptcy Code allows the debtor's personal liability to be eliminated.

disclosure statement A written document prepared by the Chapter 11 debtor or other plan proponent that is designed to provide "adequate information" to creditors to enable them to evaluate the Chapter 11 plan of reorganization.

equity The value of a debtor's interest in property that remains after liens and other creditors' interests are considered. (Example: If a house valued at \$60,000 is subject to a \$30,000 mortgage, there is \$30,000 of equity.)

executory contract or lease Generally includes contracts or leases under which both parties to the agreement have duties remaining to be performed. (If a contract or lease is executory, a debtor may assume it or reject it.)

exempt A description of any property that a debtor may prevent creditors from recovering.

exemption Property that the Bankruptcy Code or applicable state law permits a debtor to keep from creditors.

exempt property Property or value in property that a debtor is allowed to retain, free from the claims of creditors who do not have liens.

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face sheet filing A bankruptcy case filed either without schedules or with incomplete schedules listing few creditors and debts. (Face sheet filings are often made for the purpose of delaying an eviction or foreclosure.) family farmer An individual, individual and spouse, corporation, or partnership engaged in a farming operation who meet certain debt limits and other statutory criteria for filing a petition under Chapter 12.

fraudulent transfer A transfer of a debtor's property made with intent to defraud or for which the debtor receives less than the transferred property's value.

fresh start The characterization of a debtor's status after bankruptcy, i.e., free of most debts. (Giving debtors a fresh start is one purpose of the Bankruptcy Code.)

insider (of individual debtor) Any relative of the debtor or of a general partner of the debtor; partnership in which the debtor is a general partner; general partner of the debtor; or corporation of which the debtor is a director, officer, or person in control.

insider (of corporate debtor) A director, officer, or person in control of the debtor; a partnership in which the debtor is a general partner; a general partner of the debtor; or a relative of a general partner, director, officer, or person in control of the debtor.

joint administration A court-approved mechanism under which two or more cases can be administered together. (Assuming no conflicts of interest, these separate businesses or individuals can pool their resources, hire the same professionals, etc.)

joint petition One bankruptcy petition filed by a husband and wife together.

lien A charge upon specific property designed to secure payment of a debt or performance of an obligation.

liquidation A sale of a debtor's property with the proceeds to be used for the benefit of creditors.

liquidated claim A creditor's claim for a fixed amount of money.

motion to lift the automatic stay A request by a creditor to allow the creditor to take an action against a debtor or the debtor's property that would otherwise be prohibited by the automatic stay.

no-asset case A Chapter 7 case where there are no assets available to satisfy any portion of the creditors' unsecured claims.

nondischargeable debt A debt that cannot be eliminated in bankruptcy.

objection to discharge A trustee's or creditor's objection to the debtor's being released from personal liability for certain dischargeable debts.

objection to exemptions A trustee's or creditor's objection to a debtor's attempt to claim certain property as exempt, i.e., not liable for any prepetition debt of the debtor.

party in interest A party who is actually and substantially interested in the subject matter, as distinguished from one who has only a nominal or technical interest in it.

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plan A debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time.

plaintiff A person or business that files a formal complaint with the court.

postpetition transfer A transfer of a debtor's property made after the commencement of the case.

prebankruptcy planning The arrangement (or rearrangement) of a debtor's property to allow the debtor to take maximum advantage of exemptions. (Pre-bankruptcy planning typically includes converting nonexempt assets into exempt assets.)

preferential debt payment A debt payment made to a creditor in the 90-day period before a debtor files bankruptcy (or within one year if the creditor was an insider) that gives the creditor more than the creditor would receive in the debtor's Chapter 7 case.

priority The Bankruptcy Code's statutory ranking of unsecured claims that determines the order in which unsecured claims will be paid if there is not enough money to pay all unsecured claims in full.

priority claim An unsecured claim that is entitled to be paid ahead of other unsecured claims that are not entitled to priority status. Priority refers to the order in which these unsecured claims are to be paid.

proof of claim A written statement, filed by a creditor, describing the reason a debtor owes the creditor money. (There is an official form for this purpose.)

property of the estate All legal or equitable interests of the debtor in property as of the commencement of the case.

reaffirmation agreement An agreement by a Chapter 7 debtor to continue paying a dischargeable debt after the bankruptcy, usually for the purpose of keeping collateral or mortgaged property that would otherwise be subject to repossession.

secured creditor An individual or business holding a claim against the debtor that is secured by a lien on property of the estate or that is subject to a right of setoff.

secured debt Debt backed by a mortgage, pledge of collateral, or other lien; debt for which the creditor has the right to pursue specific pledged property upon default.

schedules Lists submitted by the debtor along with the petition (or shortly thereafter) showing the debtor's assets, liabilities, and other financial information. (There are official forms a debtor must use.)

statement of financial affairs A series of questions the debtor must answer in writing concerning sources of income, transfers of property, lawsuits by creditors, etc. (There is an official form a debtor must use.)

statement of intention A declaration made by a Chapter 7 debtor concerning plans for dealing with consumer debts that are secured by property of the estate.

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substantial abuse The characterization of a bankruptcy case filed by an individual whose debts are primarily consumer debts where the court finds that the granting of relief would be an abuse of Chapter 7 because, for example, the debtor can pay its debts.

substantive consolidation Putting the assets and liabilities of two or more related debtors into a single pool to pay creditors. (Courts are reluctant to allow substantive consolidation since the action must not only justify the benefit that one set of creditors receives, but also the harm that other creditors suffer as a result.)

341 meeting A meeting of creditors at which the debtor is questioned under oath by creditors, a trustee, examiner, or the U.S. Trustee about his/her financial affairs.

transfer Any mode or means by which a debtor disposes of or parts with his/her property.

trustee The representative of the bankruptcy estate who exercises statutory powers, principally for the benefit of the unsecured creditors, under the general supervision of the court and the direct supervision of the U.S. Trustee or Bankruptcy Administrator.

typing service A business not authorized to practice law that prepares bankruptcy petitions.

United States Trustee An officer of the Justice Department responsible for supervising the administration of bankruptcy cases, estates, and trustees, monitoring plans and disclosure statements, monitoring creditors' committees, monitoring fee applications, and performing other statutory duties.

undersecured claim A debt secured by property that is worth less than the amount of the debt.

unlawful detainer action A lawsuit brought by a landlord against a tenant to evict the tenant from rental property--usually for nonpayment of rent.

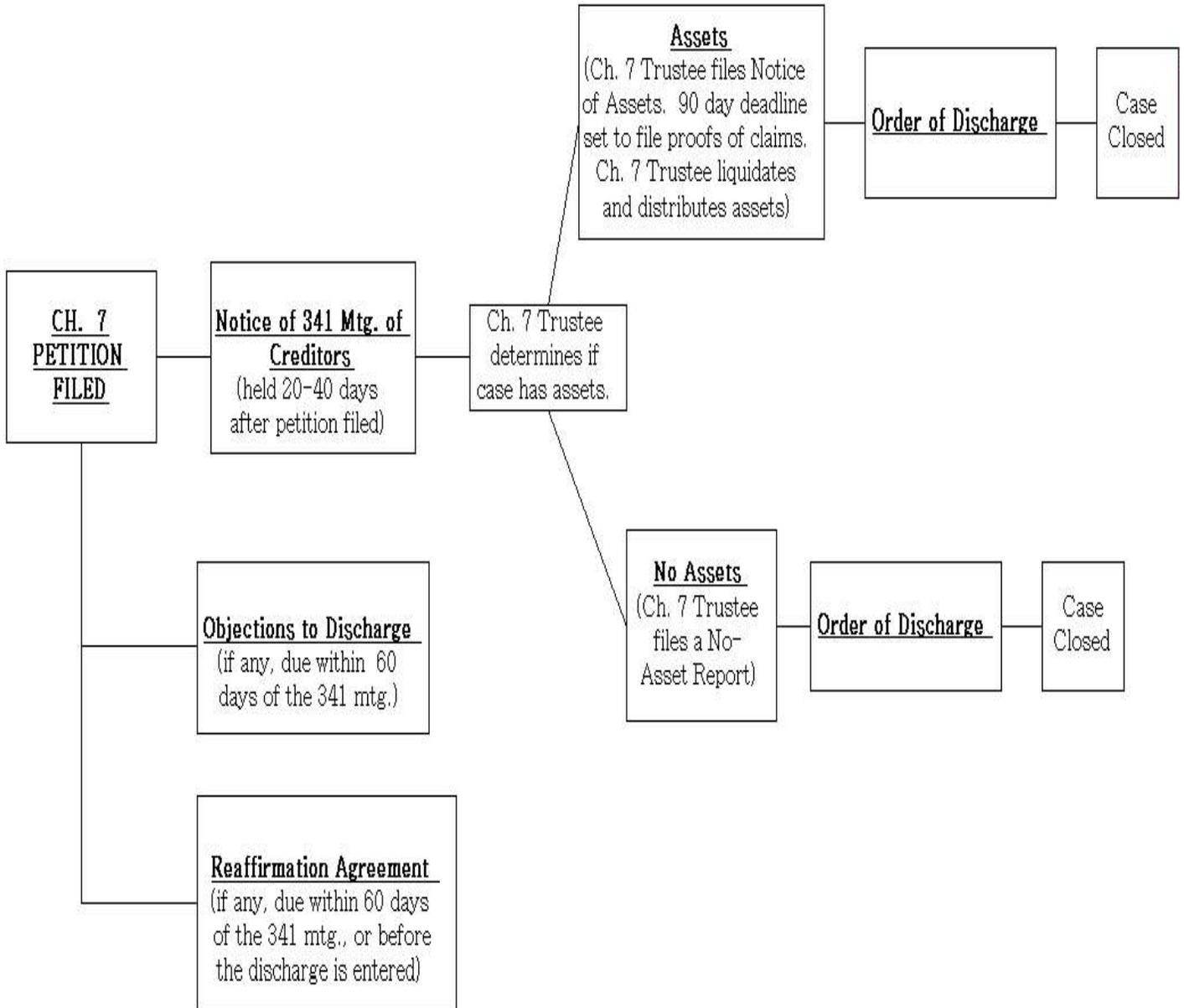
unliquidated claim A claim for which a specific value has not been determined.

unscheduled debt A debt that should have been listed by a debtor in the schedules filed with the court but was not. (Depending on the circumstances, an unscheduled debt may or may not be discharged.)

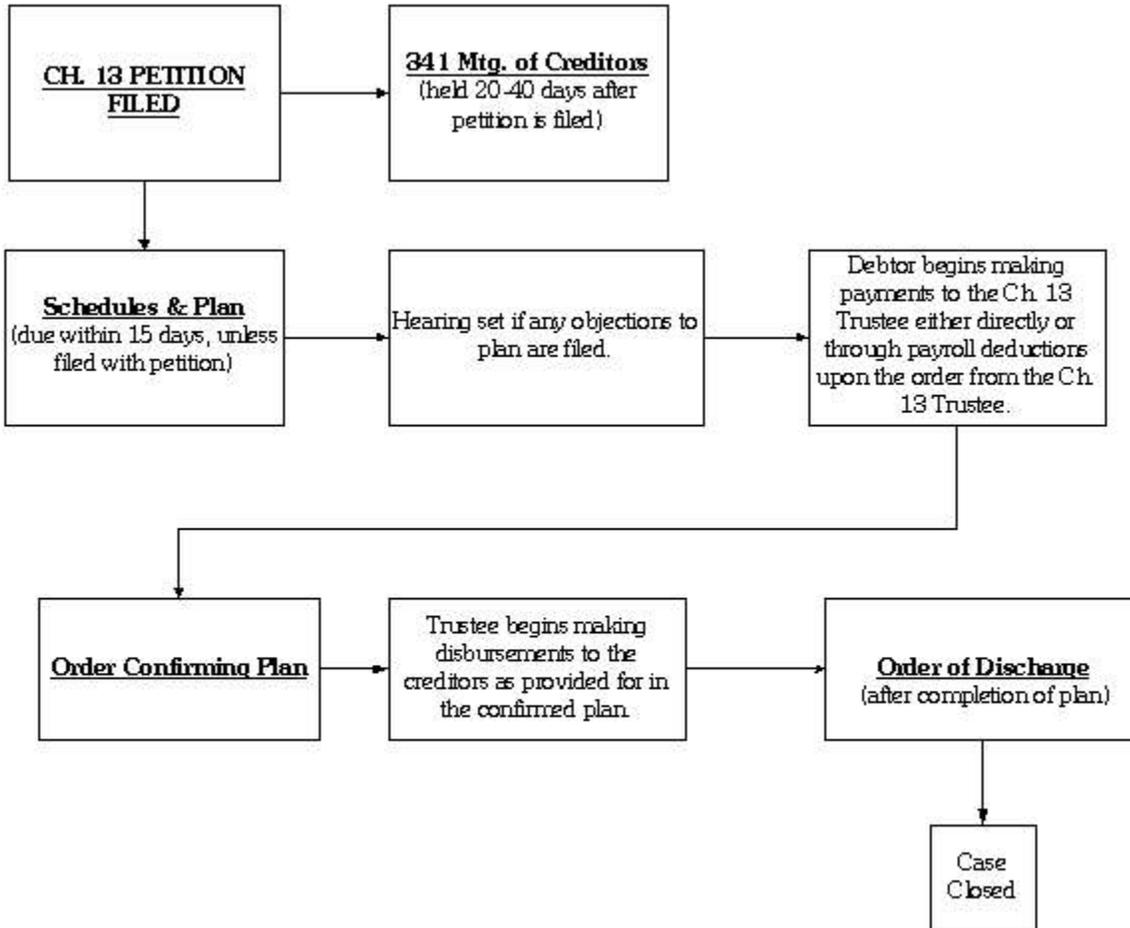
unsecured claim A claim or debt for which a creditor holds no special assurance of payment, such as a mortgage or lien; a debt for which credit was extended based solely upon the creditor's assessment of the debtor's future ability to pay.

voluntary transfer A transfer of a debtor's property with the debtor's consent.

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U.S. BANKRUPTCY COURT FEE SCHEDULE

NEW CASES

The fee or an aplc to pay in installments is due if debtor is an individual. A company or inc. may not pay in installments.

\$ 209.00	Chapter 7 -Vol/Inv (\$155 filing fee + \$39 adm fee + \$15 trustee fee surcharge)
\$ 839.00	Chapter 9 (\$800 + \$39 adm fee)
\$ 839.00	Chapter 11 (\$800 + \$39 adm fee)
\$1039.00	Chapter 11 -Vol/Inv Railroad (\$1000 + \$39 adm fee)
\$ 239.00	Chapter 12 (\$200 + \$39 adm fee)
\$ 194.00	Chapter 13 (\$155 + \$39 adm fee)
\$ 839.00	Ancillary to a foreign proceeding

MOTION TO REOPEN

Fee = the current filing fee for that chapter. Fee is not refundable if denied (5/98). No fee due if reopening is to file a dischargeability complaint (but adv fee is due). Trustee may pay through estate.

\$ 155.00+	Chapter 7 (adm fee + tr surcharge are not included)
\$ 800.00+	Chapter 9 (adm fee is not included)
\$ 800.00+	Chapter 11 (adm fee is not included)
\$ 200.00+	Chapter 12 (adm fee is not included)
\$ 155.00+	Chapter 13 (adm fee is not included)
+	Also collect archive fee & amendment fee, if appropriate.

OTHER FILING FEES

\$ 150.00	Adversary (12/18/96) (no charge if debtor is plaintiff or if child support affidavit is filed) (debtor-in-possession or trustee may pay through estate)
\$ 26.00	Amendment (Adding, deleting, changing amount or classification of a debt on creditor sched or mtx, no fee due to change address of existing cred or to add cred attorney. No fee due for post- petition cred added within 15 days of conversion to ch 7.)
\$ 255.00	Notice of Appeal ((\$250 docketing, \$5.00 appeal fee - debtor-in-possession/trustee may pay through estate)
\$ 5.00	Motion for Leave to Appeal
\$ 250.00	Cross Appeal (debtor-in-possession or trustee may pay through estate)
\$ 150.00	Motion for Relief from Stay (no charge if stipulation for relief filed) (No fee due for Motion for Relief from Co-Debtor Stay)(3/00 Per Judge Mahoney, fee waived for Motion for Relief filed by debtor re: divorce action)
\$ 150.00	Motion to Compel Abandonment of Property
\$ 150.00	Motion to Withdraw Reference of a case
\$ 39.00	Register Judgment from another district (foreign subpoena)

Conversion

Fee due for motion not for actual conv. Payable at the time of filing & is not refundable.

\$ 645.00	Chapter 7 or 13 converted to Ch 11 by the debtor (no fee due if filed by creditor)
\$ 15.00	Conversion to Chapter 7 (if trustee movant-fee payable from estate)

Deconsolidation of cases = the current filing fee for the original chapter

\$ 155.00+	Chapter 7 or 13 Deconsolidation
\$ 800.00+	Chapter 11 Deconsolidation
\$ 200.00+	Chapter 12 Deconsolidation
+	Also collect conversion fee, if appropriate

MISC CHARGES

\$.50	Copies
\$.10	Paper copies from Clerk=s public access terminals
\$ 26.00	Search fee
\$ 9.00	Certification fee
\$ 18.00	Exemplification (fee = 2 x certification fee)

\$ 26.00 Reproducing tape recordings
\$ 45.00 Archive retrieval fee
\$ 45.00 Returned check for lack of funds
\$ 39.00 Administrative fee (administrative fee for all cases)
\$ Witness Fee - party must contact Dist Ct, the fee is the same, not payable to BK C