

Understanding Personal Bankruptcy in the State of Indiana



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If you are filing for bankruptcy in Indiana, there are a few important things you should know. The Indiana bankruptcy process is similar to those in other states and is intended to achieve comparable goals, but understanding the specifics of bankruptcy law in the state will ensure you make the most of your bankruptcy experience. Working with an experienced Indiana bankruptcy attorney ensures you have all of your bases covered and that the process will go as smoothly as possible for you.

Bankruptcy is triggered for a variety of reasons, but in every case, it is used to achieve one thing: easing or eliminating massive debt. In some cases, bankruptcy also repays creditors to the extent the debtor is able to do so, but there are some debts in bankruptcy that will not be repaid. Whether a debt gets repaid and to what extent depends on the type of bankruptcy filed by the debtor.

In most cases, debtors are eligible for either Chapter 7 or Chapter 13 bankruptcy. Of the tens of thousands of bankruptcies filed in Indiana each year, about 75% are Chapter 7. This type of bankruptcy allows debtors to have their debts discharged, whereas Chapter 13 bankruptcies arrange a repayment plan that requires consistent payments for a certain period before some or all of the debtor's remaining debt is dismissed. Chapter 7 bankruptcies are usually completed within four to six months, whereas Chapter 13 repayment typically last three to five years.

Indiana uses federal guidelines to manage bankruptcy cases in the state. Cases are filed in US Bankruptcy Courts, which are located throughout the state in cities including Fort Wayne, South Bend, Lafayette, Hammond, Evansville, New Albany, Richmond, and Indianapolis.

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Many consider Chapter 7 preferable for debtors without many assets, such as investments or equity in their home. This is because the trustee assigned by the bankruptcy court is able to liquidate the value of property not protected by Indiana's bankruptcy exemptions to pay off debts. Chapter 7 bankruptcy allows debtors to keep some property, which are covered under the list of exempt assets. The vast majority of Chapter 7 cases are "no-asset" cases, which means no property is taken.

Exemptions in Indiana Bankruptcy

Some types of bankruptcy allow for exemptions that keep property safe from creditors. This can be an effective way to protect items of value, such as your home or vehicle. In Indiana, bankruptcy filers must use the state's bankruptcy exemptions, which is slightly different than the federal guidelines. States set different guidelines and in some places, debtors can use federal guidelines only or a combination of federal and their state's guidelines.



Examples of items on the exemption list in Indiana include:

- Homestead (real or personal property that serves as a residence)
- Intangible personal property (bank accounts, cash)
- Personal property (including furniture, appliances, automobiles and clothing)

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- Public benefits (victim's compensation payments, unemployment compensation)
- Life insurance
- Pension and retirement savings

Specific values related to exemptions are subject to change, which is one of the reasons it is important to work with an attorney familiar with Indiana bankruptcy laws. Listing exemptions incorrectly could result in the loss of your belongings.

Residency Requirements in Indiana Bankruptcy

Indiana requires bankruptcy filers live in the state for at least 91 days. Filers must use the exemptions from the state where they have lived the majority of the previous two years or 730 prior to the date the bankruptcy is filed. If you recently moved to Indiana, you will need to file under the laws of the state from which you were living or under federal law.

If you are married, there are a few additional things you will need to consider when filing for bankruptcy, or if your spouse files for bankruptcy. Indiana is not a community property state, so a debtor is not responsible for a spouse's debts unless he or she chooses to be through co-signing of a loan. Let your bankruptcy attorney know if you are in the process of divorce or recently divorced, as this might affect your bankruptcy situation.



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Working with an Indiana Bankruptcy Attorney

Bankruptcy laws can change and are fairly complicated. It is possible for a debtor to file for bankruptcy without the assistance of an attorney, but more often than not, doing so is a mistake. Working with an attorney ensures your filing is done properly and greatly reduces the risks your case will be dismissed by a bankruptcy court. An attorney can also better explain the process, so you know what to expect and experience less anxiety during the process.

Attitudes toward bankruptcy have changed a great deal over the years and now, many people use bankruptcy as a tool to get their financial lives back on track. An attorney can explain to you the benefits of filing and help you create a comprehensive plan for restoring your financial future.

Are you interested in filing for bankruptcy or do you have questions about the bankruptcy process in Indiana? Dennis Golden can help.

Dennis provides clients with personal attention, expertise, and results expected of a bankruptcy attorney. He has had the privileged of serving individual and corporate clients and has earned a reputation for providing scholarly, dedicated, and aggressive representation. He understands Indiana bankruptcy laws and can help you make the best legal decisions that will allow you to get back on track and end creditor harassment.

To schedule a consultation, contact Dennis at 260.423-4400 (Fort Wayne) or 574-267-1930 (Warsaw), or by email at dgolden@goldenlaw.biz.

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