

## What should I do if I cannot keep up with my monthly expenses?

If you have exhausted all other options, you may consider filing for personal bankruptcy. Depending on which chapter of bankruptcy you file, it may be reported by credit bureaus for up to 10 years. While you may not be excluded from certain credit accounts, the bankruptcy may limit credit amounts and the interest rates charged on that credit.

Through a Chapter 7 bankruptcy, your non-exempt assets may be liquidated by a court-appointed trustee to pay a portion of your obligation to your creditors. After the liquidation, most unpaid debts are discharged.

Chapter 13 bankruptcy allows you to pay your debts over a longer period of time so that you can retain certain property such as your home and car.

A bankruptcy may not eliminate certain debts such as child support, alimony, taxes and student loans.

## When should I seek legal help?

If you are losing ground in payments to creditors, you should consider consulting with a lawyer to discuss bankruptcy and other options available to help manage your debt. Call the Pennsylvania Bar Association Lawyer Referral Service toll-free at 800-692-7375. Many county bar associations offer the same service. Check your “Yellow Pages” directory under “attorneys” for a phone listing or check the website of your nearest county bar association.

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Pennsylvania Bar Association

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# Know Your Credit Rights

Consumer Legal

Information Pamphlets

by the

PENNSYLVANIA BAR ASSOCIATION



If you have ever applied for a mortgage or a home equity loan, obtained a credit card or used a loan to purchase a car, then you are a credit consumer. As a credit consumer, you need to know your legal rights and obligations, especially in today's uncertain economic times. Some credit consumers who can't pay their bills grow desperate, run up mounds of debt and get caught in a downward spiral of credit problems. Don't let this happen to you!

## What should I know about credit billing and payment?

Once you obtain credit privileges, you are responsible for repaying your debts. Avoid late fees and collection charges and protect your creditworthiness by paying bills and loans promptly.

If you make more than the minimum payment on your bill, your credit card company must apply the excess of the amount to the balance with the highest interest rate. However, if you made a purchase under a deferred interest plan, the credit card company may let you choose to apply the extra amounts to the deferred interest balance before other balances. Otherwise, for two billing cycles prior to the end of the deferred interest period, the credit card company must apply your entire payment to the deferred interest-rate balance first.

## What rules are in place to prevent high credit card interest and fees?

In late August 2010, the Federal Reserve implemented new rules to protect credit card users from unreasonable late payment and penalty fees and to require credit card companies to reconsider interest rate increases. Under the rules of the Credit Card Accountability Responsibility and Disclosure Act, consumers are ensured the following:

- A late fee can be no more than \$25, unless one of your last six payments was late (in which case the fee may be up to \$35) or your credit card company can justify a higher fee.
- A late payment fee cannot be greater than your minimum payment.
- Only one fee can be charged for a single late payment.
- Fees cannot be charged for not using your card.
- Increases in your card's APR (annual percentage rate) must be explained.
- If your card's APR is increased, the rate must be re-evaluated every six months. If appropriate, the credit card company must reduce your rate within 45 days after completing the evaluation.

## What should I know about credit card interest rate increases and changes in terms for payment?

Your credit card company cannot increase your rate for the first 12 months after you open an account. There are exceptions, however. If your card has a variable rate tied to an index, your rate can go up whenever the index increases. Also, an introductory interest rate must be in place for six months but after that period the rate can revert to the “go-to” rate the company disclosed when you got the card.

If your interest rate is raised after the first year, the new rate is to apply only to new charges you make.

Your rate can be raised if you are more than 60 days late in paying your bill.

If you are in a payment workout agreement, your rate can be raised if you don't make your payments as you agreed.

You must be given the option to cancel your credit card if changes are made to the terms of the card and before certain fee increases go into effect.

## What should I do if I have problems paying my bills?

Don't ignore the problem. Contact lenders and creditors to determine if they have options to help borrowers facing difficult times. Open and respond to all notices from your lenders and creditors. Prioritize your spending and reduce spending wherever possible to make payments. If possible, get a second job to demonstrate to creditors that you will make sacrifices to pay your bills. If you need to liquidate assets to pay your bills, first consider consulting with a bankruptcy lawyer. Otherwise, you may be selling assets that you might be able to keep through the bankruptcy process.

*Special Note: This pamphlet has been issued to inform and not to advise. It is based on U.S. and Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referenced in this pamphlet.*

## What can I do if I believe I have been unfairly denied credit?

The Equal Credit Opportunity Act ensures that all consumers are given an equal chance to obtain credit. However, the act does not require all creditors to have the same standards or to guarantee approval of loan applications. Lenders must notify credit applicants of their decision within 30 days of receiving completed applications. If credit is denied, the creditor must provide a written statement explaining why (or how to request the reason). Creditors found to have discriminated against an applicant can be liable for damages up to \$10,000.

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## What if I notice an error on my credit card bill?

You must file your dispute with your credit card company within 60 days of receiving the bill. The creditor is then required to acknowledge receiving the complaint within 30 days and resolve the dispute within 90 days. The creditor may not downgrade your credit rating or declare payments as delinquent while a billing item is in dispute.

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## What do I need to know about debt collection agencies?

The Fair Debt Collection Practices Act prohibits debt collectors from using threats and obscene language, publicizing the debt, making annoying and anonymous telephone calls and misrepresenting the identity of the collector and the consequences if the debt is not paid. Debt collectors must send written notice after making contact with the debtor to inform him or her of the debt amount and that the debt will be considered valid unless disputed within 30 days. Debt collectors are permitted to contact persons other than the debtors in order to locate the debtors. If the act is violated, consumers can sue debt collectors for actual and punitive damages and may obtain reasonable attorney's fees.

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## How important is my credit report?

Credit reports help creditors decide if you are a good risk for receiving loans and credit extensions. Credit reports impact where you live, what you buy and even where you work, because your credit record may be considered by prospective employers.

## How are credit reports prepared and what information is in my credit report?

Credit reports are prepared by credit agencies, which are private companies that collect and provide credit information reported to them by creditors, including banks, loan and credit card companies and department stores. Credit companies can report negative or bad credit information for seven years. A bankruptcy can be reported for 10 years. Your credit report includes account information such as the total amount you owe to creditors, the amount of your monthly payments and late payments.

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## How can I obtain a free credit report?

You can get a free copy of your credit report from each of the three consumer reporting agencies once every 12 months. Some advisors suggest that you review one of your three credit reports every four months. This scheduled review can help you detect errors and monitor changes in your credit profile. If you find an error in your report, immediately notify the consumer reporting agency. For additional information, visit the Federal Trade Commission website, [www.ftc.gov/freereports](http://www.ftc.gov/freereports).

You also can receive a free copy of your credit report if you are denied credit, employment or insurance within the last 60 days, you are the victim of identity theft, you are on public assistance or you are unemployed and expect to apply for unemployment within 60 days.

Under the Fair Credit Reporting Act, if a credit application is rejected because of information in your credit report, the lender must provide the name, address and phone number of the credit reporting agency that issued the report. Then you have 60 days to request a free copy of your credit report from the consumer reporting agency. You also have the right to have the credit reporting agency reissue corrected reports to lenders that received the flawed report within the last six months and to employers that received the flawed report in the past two years.

The three credit reporting agencies have established a single toll-free telephone number and a website for requesting a free credit report once every 12 months: Annual Credit Report Request Service, [www.annualcreditreport.com](http://www.annualcreditreport.com), 877-322-8228. Contact information for the three credit reporting agencies is available on their websites: Equifax, [www.equifax.com](http://www.equifax.com); Experian, [www.experian.com](http://www.experian.com) and TransUnion, [www.transunion.com](http://www.transunion.com).

## How can I access my credit score?

Your credit score, which is the numerical expression of your creditworthiness, can be purchased at the time you access your free credit report. A score above 700 may qualify you for preferable loan rates.

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## Who can I contact when credit reporting agencies and creditors do not resolve issues?

If a dispute in your credit report is denied by a credit agency, you can file a written statement of up to 100 words that will be included in your credit report and will be provided to prospective creditors. You also can contact your local consumer protection office, the Federal Trade Commission (FTC) or the Pennsylvania Attorney General's Bureau of Consumer Protection, [www.attorneygeneral.gov](http://www.attorneygeneral.gov), 800-441-2555.

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## What should I do if I am a victim of identity theft?

Take prompt action! Consumers are allowed to report accounts they believe are affected by identity theft directly to credit reporting agencies and creditors to prevent the spread of bad credit information.

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## Can my wages be taken to repay a debt?

In Pennsylvania, creditors may not take any part of your wages to pay a debt. However, part of your wages can be taken to pay child and spousal support, student loans and judgments against you for unpaid rent.

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## What should I know about consolidation loans?

Consolidation loans can be classified as unsecured or secured. When you apply for an unsecured loan, you do not have to put up your property as collateral – you simply repay what you owe. When you apply for a secured loan, you may receive a better interest rate, but you are putting your house at risk if you fail to pay what you owe. If you have questions about the rate or terms of such loans, you should consider consulting an attorney. You also can contact the Pennsylvania Department of Banking, 800-PABANKS.

## What should I know about debt-settlement companies and credit counselors?

Legitimate credit counseling agencies set up debt repayment plans. Under these plans, creditors agree to accept reduced payments made through a reputable credit counselor. Frequently, these plans require that you not take on additional debt during the repayment period.

In late September 2010, the FTC put new rules into effect to crack down on unscrupulous debt-settlement companies selling debt relief services over the telephone. The rules specifically take aim at for-profit companies making fraudulent claims about their abilities to reduce consumers' debt balances, interest rates and penalty fees. A debt-settlement company must disclose how long it will take the debt-settlement company to get results, how much the debt-settlement company charges for its services and the potential negative consequences of seeking debt relief.

A debt-settlement company is prohibited from misrepresenting its success rates, such as the percentage of debt reduction for a typical client.

Additional new rules, initiated in late October 2010, make it illegal for a debt-relief service to charge upfront fees. A company can't get paid until it successfully settles or reduces a client's credit card or other unsecured debt.

Previously, debt-settlement companies often told their clients to stop paying their bills and send money to the debt-settlement companies to pay creditors. Under the new rules, a dedicated account must be established at an insured financial institution and the money belongs to the consumer, who can withdraw it at any time with no penalty.

*Important note:* The new rules only apply when consumers receive phone solicitations for debt relief services and when consumers make calls in response to advertisements for such services. The rules do not apply if there is a face-to-face meeting with a debt-settlement company representative before a contract is signed or if the transaction takes place entirely online. Companies falsely claiming nonprofit status are subject to the new standards; legitimate nonprofit organizations helping consumers renegotiate their debts are not.

Contact your local Better Business Bureau, your local consumer protection agency or the Pennsylvania Attorney General's Bureau of Consumer Protection before doing business with such companies.