

What is a Reaffirmation Agreement?

Page 1

What does it mean to reaffirm a debt in your bankruptcy?

A reaffirmation agreement is a new contract to pay an existing debt. This means you are keeping an obligation to repay a debt that would otherwise be discharged in the bankruptcy. Reaffirmation agreements must be approved by the Court.

Reaffirmation agreements are most often used when you want to keep your car and want to continue to make payments on the car loan. Talk to your car lender before entering into a reaffirmation agreement. Sometimes they do not require a reaffirmation agreement and will allow you to simply continue making payments.

What to consider in deciding whether to reaffirm a debt?

A bankruptcy gives you a fresh start, so consider the following:

- Is your car worth what you are paying for it? It is important to know the fair market value (FMV) of your car and how much you owe on your car loan. Often, you may owe far more than what the car is worth.
- Are your payments current on the car loan?
- Can you afford the car payments going forward? Be honest with yourself.
- Will the creditor give you any better terms for your loan if you enter into a reaffirmation agreement? Usually, a creditor will keep the terms the same, however sometimes you can get a better interest rate or lower payment.

What happens if the Court approves the reaffirmation agreement?

- The debt is not discharged.
- You must continue to make payments on the loan.
- If you fall behind in payments, the creditor can take the car, AND sue you for the balance of the loan. This lawsuit could lead to wage garnishments or other collection efforts by the creditor.
- The car payments will show on your credit report.

What happens if the Court does not approve the reaffirmation agreement?

- You can usually continue making payments and keep the car. When you pay the entire loan in full, it will show positively on your credit report.
- If you stop making payments after the bankruptcy is completed, the creditor can take the car. However, the debt is discharged, and the creditor cannot sue you for the loan balance.

What is a Reaffirmation Agreement?

Page2

How do you reaffirm a debt?

1. After you file your Chapter 7 bankruptcy, you must file a Statement of Intention (Official Form 108) within 30 days with the Court. You will list your creditor and the vehicle on the form. You should also mark the box that says you wish to reaffirm the loan.
2. You must mail a copy of the Statement of Intention to the creditor to let them know that you wish to reaffirm the debt.
3. The creditor will draft a reaffirmation agreement and send it back to you. You should review the agreement and sign it if you agree with the terms. You can also speak with the creditor and see if you can get better terms.
4. You must send the signed reaffirmation agreement back to the creditor within 45 days after your §341 Meeting of Creditors.
5. Once the creditor receives the agreement, they will sign it and file it with the Court.
6. If you do not have a lawyer, the Court will set a hearing on your reaffirmation agreement. You must attend. Often the hearings are by phone or video.
7. At the hearing, the Court will explain the reaffirmation process and you will have an opportunity to ask questions.
8. In order to approve the reaffirmation agreement, the Court must find that the agreement is in your best interest and that it will not cause an “undue hardship” on you.