

REAFFIRMATION AGREEMENT INFORMATION PACKET



35TH ANNIVERSARY

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www.publiccounsel.org

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1. What is a Reaffirmation Agreement?

When you declare bankruptcy, some or all of your debts are discharged and you are no longer legally responsible for paying them back. This gives you a "fresh start."

A reaffirmation agreement is where you agree to pay a debt even though you could have eliminated the debt in your bankruptcy case. When you reaffirm a debt, you continue to be legally responsible for paying it back. This gives the creditor some legal rights. For example, if you have a car loan and miss a payment in the future, the creditor can do any of the following things:

- (1) Repossess the car;
- (2) Sell the car to someone else; and
- (3) Sue you for the money you owe (deficiency balance).

When you reaffirm a debt, it's like you never filed for bankruptcy. This can have serious financial consequences on your future. Therefore, it is wise to consider all of your options before entering into a reaffirmation agreement.

2. Should I Reaffirm a Debt?

a. Voluntary Reaffirmation

In many cases, you do not need to reaffirm a debt. This will give you the full benefit of a "fresh start" by eliminating your debt. However, you may have special reasons for paying back a particular debt. If this is the case, you may be able to pay it back on a voluntary basis, without signing a reaffirmation agreement. It is a good idea to talk to an attorney to find out what is best for you. A list of free or low-cost bankruptcy help in your area is included at the end of this packet.

b. Mandatory Reaffirmation

If you filed your bankruptcy case on or after October 17, 2005, a reaffirmation agreement may be mandatory. For example, if you own secured property, such as a car, you must tell the court what you intend to do with it. You have three options:

- (1) Keep the car and continue making payments until it's paid off;
- (2) Keep the car by paying it off in a lump-sum payment (this could be less than you owe); or
- (3) Return the car to the creditor and owe nothing more.

If you can afford to keep the secured property and continue making payments, you are required to sign a reaffirmation agreement, unless the creditor agrees otherwise. If you decide that you cannot afford to keep the property, you must return it to the creditor. If you decide to return it, the debt will clear later on with your bankruptcy discharge.

c. 45 days to Comply

After you file for bankruptcy, you will receive an appointment to see the bankruptcy trustee. This is called the 341(a) hearing or "meeting of the creditors." After that meeting, you have 45 days to sign a reaffirmation agreement or return the secured property to the creditor. If you fail to do either of these things, you may lose important legal rights and the property.

3. Reaffirmation Hearing

If you do not have an attorney, the bankruptcy judge must approve your reaffirmation agreement. You will receive a hearing date to see a judge and explain why you want to reaffirm the debt. You must also explain how you can afford to make payments in the future. The judge will decide whether or not to approve your reaffirmation agreement.

Volunteer attorneys from Public Counsel are usually available at the bankruptcy courts in Los Angeles and Woodland Hills on the day of your hearing. If you are unsure about the reaffirmation process or have a question about your agreement, it is best to arrive to your hearing a few minutes early to get free counsel and advice from a volunteer attorney. You can also call Public Counsel for legal help at the phone number provided below.

4. Making Payments

While your bankruptcy case is pending, you must continue making payments to avoid losing your secured property. Your creditor may have stopped sending you the monthly bill after you filed for bankruptcy. If so, contact the creditor immediately to get the correct payment information, including the address and payment date. If you do not hear back from the creditor, it is still your responsibility to send payments on time.

FREE OR LOW COST BANKRUPTCY HELP

Los Angeles

- Legal Aid Foundation of Los Angeles (323) 801-7914
- Los Angeles County Bar Referral & Information Service
(FREE 30-minute consultation w/ attorney) (213) 243-1525
- Public Counsel (213) 385-2977, ext. 704

San Fernando Valley

- Bet Tzedek (818) 769-0136
- Los Angeles County Bar Referral & Information Service
(FREE 30-minute consultation w/attorney) (213) 243-1525
- San Fernando Valley Bar Lawyer Referral Service
(30-minute consultation w/attorney for a \$30 fee) (818) 227-0490

Santa Barbara

- Conejo Free Clinic Legal Services (805) 497-3575
- Santa Barbara County Bar Lawyer Referral Service
(30-minute consultation w/attorney for a \$50 fee) (805) 563-9400
- Ventura County Bankruptcy & Family Law Clinic
(30-minute consultation w/attorney for a \$35 fee) (805) 650-7599

Orange County

- Legal Aid Society of Orange County (714) 571-5270
- Public Law Center (Referrals from Legal
Aid Society of Orange County) (714) 541-1010
- Orange County Bar Lawyer Referral & Information Service
(FREE 30-minute consultation w/attorney) (949) 440-6747

Riverside

- Riverside County Bar Lawyer Referral Service
(FREE 30-minute consultation w/attorney) (909) 945-2980