

DON'T FORGET YOUR FINANCIAL COUNSELING COURSES!

Bankruptcy law requires all debtors to complete two financial counseling courses.

Briefly described, Credit Counseling generally refers to: (1) the "individual or group briefing" from a nonprofit budget and credit counseling agency that individual debtors must attend prior to filing under the Bankruptcy Code; and (2) the "instructional course in personal financial management" that an individual debtor must complete before a discharge is entered.

- BEFORE you file:

Within 180 days before filing bankruptcy, the debtor must obtain a **Certificate of Compliance** by attending **credit counseling** through a U.S. Trustee Division approved credit counseling agency. The Certificate of Compliance, together with any financial management plan resulting from the counseling, must be filed with the Voluntary Petition and Schedules.

- AFTER you file:

After filing, but before the debtor's debts are discharged, the debtor is required to attend a **second** instructional course in Personal Financial Management offered by an approved personal financial management provider. The debtor must file a **Certificate of Completion** (Official Form 23) with the Court:

- a) within 60 days after the date for the 341 Meeting is first set for a Chapter 7.
- b) no later than the debtor's last payment made as required by the plan, or the filing of a motion for entry of a discharge under § 1328(b) for a Chapter 13.

Failure to file the Certificate of Completion as required may result in the case being closed without a discharge.

In Las Vegas, the counseling can be obtained in person at Financial Guidance Center at 2650 S. Jones Blvd., Las Vegas, NV 89146, (702) 364-0344. The counseling can also be obtained on a computer or by telephone. There is a charge for the counseling and issued Certificates. A list of approved pre-bankruptcy credit counseling agencies is available from the clerk's office or at: <http://www.usdoj.gov/ust/eo/bapcpa/ccde/index.htm>.

For more information, the Federal Trade Commission has an article called "Filing for Bankruptcy: What to Know," which contains information about credit counseling and can be found at: <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre41.shtm>.

Do you fall under an Exemption?

There are exceptions to both course requirements if emergency circumstances are present, if the U.S. Trustee or bankruptcy administrator has determined that there are insufficient approved credit counseling agencies available to provide you the necessary counseling, or for debtors unable to complete the requirements because of incapacity (mental illness or mental deficiency), disability (physical impairment), or active military duty in a military combat zone. See 11 U.S.C. § 109(h)(4). The form to request permanent exemption can be found on the court's website: <http://www.nvb.uscourts.gov> under Local Rules & Forms.

Do you qualify for an Extension?

The court may grant an extension of time to obtain your pre-petition credit counseling within the first 30 days of filing your petition. You must meet all of the following conditions:

- 1) There are emergency circumstances that merit a waiver of the requirement of obtaining the credit counseling before filing the case; **and**
- 2) You must have requested the required credit counseling from an approved nonprofit budget and credit counseling agency, but were unable to obtain the required services during the 7 day period beginning on the date which you made that request; **and**
- 3) You must file together with your petition a certification stating the facts regarding the conditions listed above in paragraphs (1) and (2), which must be satisfactory to the court.

You must file EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH CREDIT COUNSELING REQUIREMENT (Official Form 1, Exhibit D) with your petition, whether you obtained your Certificate of Compliance or are seeking an exemption or extension, in addition to any other forms required, such as for seeking an exemption.

The decision to file a bankruptcy petition is up to you, but if you file without having obtained credit counseling, you are risking dismissal of your case. The Clerk's office (and the judge) cannot provide legal advice or predict in advance how a judge will decide your request for an extension to complete this requirement.

Consequences for Failure to Satisfy Financial Counseling Requirements

If you have not completed your credit counseling before you filed your petition (or your Certificate of Compliance expired because it is older than 180 days before you filed your petition), and you do not meet the requirements for an extension or exemption to complete the credit counseling:

- **Your case may be dismissed** and you will not receive a discharge of your debts.
- In some cases, you may not be allowed to file another case for 180 days. If you file another case within 1 year after your first case was dismissed, your protection under the Bankruptcy Code's automatic stay from your creditors may be limited (see our flyer, "Have You Filed Bankruptcy Before?").