

Florida Bankruptcy Attorney

Ryan W. Gambert can help with Chapter 13 bankruptcies. Filing for bankruptcy can be seen as a financial clean slate and is sometimes seen as the best possible solution for a financial hardship.

Chapter 13

A Chapter 13 is designed to repay a portion of debt over a 3-5 year period while maintaining an interest in the asset.

Residency Requirements:

A person filing for a bankruptcy is called the debtor. The debtor must be a resident in Florida 90 days prior to filing for Bankruptcy. If the debtor has not established residency in Florida prior to the 90 days intend to file, the debtor must file in the state in which he/she resides.

Pre-filing:

Debtor must take a pre-filing credit counseling class prior to filing for bankruptcy. This is required by the Court.

The debtor will also come up with a repayment plan. This is done in order to budget the money that will be paid back to creditor during the life of the Chapter 13 proceeding.

Filing:

A debtor files a document called a petition with the Court in order to initiate the bankruptcy case. The debtor will also file a repayment plan with the Court. Once the petition for bankruptcy has been filed, an automatic stay on all collection practices goes into effect, this includes any foreclosure proceedings. The Court will send out a notice to all of the creditors that are listed in the petition. The Court will also assign a Trustee to the case. A Trustee is a person who is appointed by the Court to assist in the review and disposition of a bankruptcy case. After a review of the petition to make sure it is complete, the Trustee will schedule a meeting of creditors, also known as the 341 Meeting.

In a Chapter 13 lien strip adversary proceedings will be filed, on the debtor's behalf, in order to strip off and discharge any second mortgages or liens.

The Chapter 13 payment plan first payment is due to the Trustee, within 30 days of filing the petition. If this is not accomplished, the case will be dismissed.

341 Meeting:

The meeting of creditors, or 341 meeting, is typically 6 weeks after the bankruptcy petition is filed. The assigned Trustee presides over this meeting, which the debtor is required to attend. At this meeting the debtor is to testify, under oath, as to the accuracy of the filed petition. The creditors listed also will have a chance to ask questions, however creditors rarely attend the meeting. The 341 meeting is very informal and typically lasts only 10 minutes. After the 341 meeting, the debtor must take a post-filing credit counseling class, this is required in order to receive the discharge.

The Trustee and listed creditors have 30 days after the 341 meeting to object to any of the exemptions that have been claimed in the petition.

Confirmation Hearing:

The Court will conduct a confirmation hearing 45 days after the 341 meeting in order for the Trustee to recommend to the Court whether or not to approve of the repayment plan. Creditors can attend this hearing and object to the confirmation of the plan.

Discharge:

A debtor is eligible for a discharge under a Chapter 13 3-5 years after the date of the first payment of the repayment plan. This occurs upon the final payment to the Trustee and when the Court enters a discharge of the scheduled debt.