

An Overview of the Bankruptcy Process

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Bankruptcy can be an important tool for agricultural operations facing severe financial challenges. From a legal perspective, bankruptcy is a process for an individual or business to obtain financial relief from debts through a court administered procedure of reorganization or asset liquidation. Bankruptcy is not a cure-all to financial woes, nor does it automatically mean the end of a farming operation. This infographic shows the legal process and stages of a bankruptcy proceeding under Chapter 12 of the Bankruptcy Code, for use only by eligible family farmers and fishermen. For more information on farm bankruptcy, see our series on *Facing Farm Financial Stress: An Overview of the Bankruptcy Option* on nationalaglawcenter.org.

1. Pre-Filing



The bankruptcy process begins with gathering your financial information and consulting with your support team of lenders, attorneys financial advisors and family members to consider your options and review your short and long-term goals

for the operation. If you decide to proceed, you'll have to complete an approved **credit counseling** course prior to filing for bankruptcy.

3. Plan Development and Approval

Under Chapter 12, a debtor develops a **plan to pay fixed amounts** to creditors via the trustee on a regular basis throughout the life of repayment plan.



The bankruptcy court must hold a **confirmation hearing to approve the plan** within 45 days of the plan's filing. A bankruptcy judge will rule on whether the plan is feasible and meets the requirements for confirmation detailed in the Code.

5. Discharge of Debt

A Chapter 12 debtor receives a discharge following completion of the repayment plan. After discharge, creditors who were provided for in the Chapter 12 repayment plan are not allowed to initiate or continue collection actions against the debtor to collect a discharged debt. Certain debts are excepted from discharge.



2. Filing

Bankruptcy begins by filing a bankruptcy petition with a bankruptcy court.

What will you need to file for Chapter 12?

- a list of all of your creditors and the amounts and types of their claims;
- a list of the source, amount, and frequency of your income;
- a list of all of your property; and
- a list of all of your monthly farming and living expenses.

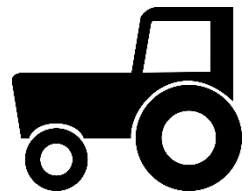


A **bankruptcy filing** will: create a bankruptcy estate, impose an automatic stay on creditor collection activities, and notify creditors of the bankruptcy case via the court clerk.

Generally, within 35 days of filing, the trustee will convene a meeting of the debtor and their creditors. At this meeting, the debtor will answer questions about their financial affairs under oath.

4. Operating Under The Plan

Debtors continue operating their farm or fishing operation according to the terms of the court-approved repayment plan for three-to-five years subject to various requirements, including: accounting for estate property received and payments made to the trustee;



furnishing information to parties in interest upon request; and filing periodic reports about the business's operations.

Trustees collect and disburse the debtor's payments to creditors according to the repayment plan terms.

6. Life After Bankruptcy

See our bulletin and infographic on *Thriving after a Farm Bankruptcy* on nationalaglawcenter.org.