



Bankruptcy

This fact sheet talks about bankruptcy in Nova Scotia and getting help to deal with your debts.

LEGAL INFOⁱ
NOVA SCOTIA

What is Bankruptcy?

Bankruptcy is a legal process that frees, or “discharges,” you from your debts, with a few exceptions. The Bankruptcy and Insolvency Act is a federal law that sets out the process and rules for bankruptcy. The federal Office of the Superintendent of Bankruptcy oversees that law.

To be eligible for bankruptcy you must:

- Owe at least \$1,000
- Not be able to pay your debts as they come due, or, the value of all your money and property (assets) must be less than your total debts.

When you go bankrupt your creditors must stop contacting you for payment, and any legal action to collect your debts stops.



Where do I start?

The first step is to contact a Licensed Insolvency Trustee (trustee).

Trustees are licensed by the federal Office of the Superintendent of Bankruptcy. They must follow a strict Code of Ethics, and are required by law to give you independent, unbiased advice about your options to deal with your debt.

Filing for bankruptcy is not the only option for dealing with debt. Sometimes all you need is advice on how to manage your money and a plan to pay down your debt. A trustee will look at your financial situation and recommend what's best for you, including alternatives to bankruptcy.

If bankruptcy is right for you, a trustee can:

- complete the paperwork to file for bankruptcy
- manage assets that are in trust and deal with your creditors
- make sure that your rights and the creditor's rights are respected.

To find a Licensed Insolvency Trustee near you, contact the **Superintendent of Bankruptcy** at 1-877-376-9902 (toll free) or <https://www.ic.gc.ca/app/scr/tds/web/>

What if I can't afford to pay a trustee?

If you have spoken to trustees and find you cannot afford the minimum fees, contact the **Office of the Superintendent of Bankruptcy** at 1 877 376-9902 for information about the *Bankruptcy Assistance Program* to see if they can help.

You will need to make monthly payments

You must make monthly payments to the trustee during your bankruptcy. These are called [surplus income payments](#). Surplus income is the amount of money your household makes that is more than the income table [Standard](#) set by the Superintendent of Bankruptcy. The Standard is the amount the government says a family with your income and number of dependents should need to live. Your entire family's income is used to calculate your surplus income payment. This includes your spouse or partner's income, as well as any other adult who is contributing towards household income.

Your trustee uses your surplus income payments to repay your creditors or cover the costs of your bankruptcy. These payments will continue as long as your income is above the Standard while you are bankrupt.

If your household income is below the Standard, the trustee will just charge you a minimum monthly fee to cover the trustee's fees.

Watch '[Bankruptcy and surplus income payments](#)' from the Office of the Superintendent of Bankruptcy Canada.

Your assets and what is protected

At the initial consultation the trustee will look at which of your assets:

- are protected by law and cannot be used to pay your debts. These are called **exempt assets**
- are secured (financed), and/or
- may be used to pay your debts in a bankruptcy.

EXEMPT ASSETS

Examples of exempt assets are:

- Personal belongings such as clothing, food and fuel
- Medical aids
- A vehicle worth no more than \$6,500
- Most life insurance policies
- Household furnishings
- RRSPs, except for contributions made in the 12 months before bankruptcy
- Any tools you use for your trade or work, up to a value of \$7,500
- Pensions.

A Registered Education Savings Plan (RESP) is not exempt in Nova Scotia. Not all of an RESP is available to your creditors though - just the portion you would get if you cash in the RESP prematurely. This usually excludes any government grants or bonds, as well as the income that has been earned on the RESP.

SECURED ASSETS

You may be able to keep some or all of your financed (secured) assets, like financed vehicles or a mortgaged house or land, but it is complicated, so you should speak with the trustee about your particular situation.

OTHER ASSETS

Other assets that a trustee will discuss with you include things like investments, potential settlements in lawsuits, inheritances—basically everything that you own or have an interest in! You must also tell the trustee about any assets that you get during the bankruptcy as these may also become part of the assets that are available to your creditors.

Duties you have

As a bankrupt you must:

- be honest with your trustee
- tell your trustee about all your property and money (assets) and debts
- tell your trustee about any assets you sold or gave away in the past few years
- give your trustee your credit cards. The trustee will cancel them
- go to two budget counselling sessions
- make surplus income payments, if required
- give the trustee information and records they need about your finances, like pay stubs and proof of other income
- pay the trustee's fees
- go to a meeting of your creditors, if required
- give the trustee your income tax information so the trustee can file your return

If you fail to do any of the things you are required to do your bankruptcy may take longer.

How long does bankruptcy last?

If you have never been bankrupt before you will likely be in bankruptcy for either 9 months or 21 months. The bankruptcy stays on your credit report for six years after your discharge.

If you've been bankrupt before, the process will be longer, and the bankruptcy will stay on your credit report longer. For example, if this is your second bankruptcy you'll likely be in bankruptcy for either 24 or 36 months, depending on your situation, and the record of the bankruptcy will stay on your credit report for 14 years.

What is a bankruptcy discharge?

A discharge is the end of your bankruptcy. A discharge means you are free from your legal responsibility to repay your debts, and you can make a fresh start.

DEBTS YOU WILL STILL OWE AFTER YOUR BANKRUPTCY

Some debts are not discharged in a bankruptcy. This means you will still owe them after your bankruptcy

The most common debts that are still owed after a bankruptcy are:

- Spousal support
- Court ordered fines, penalties or restitution
- [Student loans](#) if you stopped being a full- or part-time student less than seven years ago
- Child support
- Debts related to fraud

Talk with your trustee if you have questions about whether bankruptcy will free you from a particular debt.

Does bankruptcy stop a judgment or a foreclosure?

Bankruptcy can:

- stop any lawsuits against you by your creditors
- stop enforcement of a judgment a creditor has against you, except if the *Canada Revenue Agency* got the judgment
- stop a garnishment of your wages, including a garnishment by the Canada Revenue Agency

A bankruptcy will not stop a [foreclosure](#). However, it may help you to declare bankruptcy on other debts so that you may focus on paying the mortgage, and it may also help you if there is a deficiency (shortfall) claim after the property is sold at public auction. Talk to a trustee about your situation.

More information and help

For more information and help contact:

- Office of the Superintendent of Bankruptcy Canada - regulates bankruptcies, oversees and Licensed Insolvency Trustees, and has helpful general information about dealing with debt
Website www.ic.gc.ca (https://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/h_br01854.html) Phone: 1 877 376-9902 (toll free)
- A Licensed Insolvency Trustee. Trustees are listed in the telephone book in print or search online for a 'licensed insolvency trustee'. You can also get a list of local Licensed Insolvency Trustees from the Office of the Superintendent of Bankruptcy at 1-877-376-9902 (toll free) or osb.ic.gc.ca (<https://www.ic.gc.ca/app/scr/tds/web/?lang=eng>)
- A credit counselling agency. Credit counsellors cannot administer bankruptcies or consumer proposals, but can help you in a number of ways, such as a debt management plan, budgeting, wise credit use, and general money management. Make sure you find a credit counsellor you can trust. The Financial Consumer Agency of Canada (<https://www.canada.ca/en/financial-consumer-agency.html>) - has a fact sheet about how to find a reputable Credit Counselling service: <https://www.canada.ca/en/financial-consumer-agency/services/debt/debt-help.html>
- Debt Assistance Program, offered through Service Nova Scotia. Provides help with managing your money, dealing with creditors, and consumer proposals, but cannot administer bankruptcies (you need a Licensed Insolvency Trustee for a bankruptcy).
Contact the Debtor Assistance Program at 1 800 670-4357 or 902-424-5200, or online at novascotia.ca/sns/access/individuals/debtor-assistance.asp
- Financial Consumer Agency of Canada - <https://www.canada.ca/en/financial-consumer-agency.html>, or call 1 866 461-3222. Lots of consumer information on many money related topics.

This publication explains the law in a general way as it applies in Nova Scotia, Canada. The information is not intended as legal advice. If you have a legal problem, contact a lawyer for advice about what steps you should take in your situation.

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