

REAFFIRMATION AGREEMENT

INFORMATION PACKET



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P.O. Box 76900, Los Angeles, CA 90076
(213) 385-2977, ext. 704
www.publiccounsel.org

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 is as if you never filed for bankruptcy with respect to that debt. This can have serious financial consequences in the 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 Repayment of the Debt

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. Free volunteer attorneys are available for consultation prior to the *pro se* reaffirmation calendars in Los Angeles and Woodland Hills.

b. Reaffirmation of the debt

If you filed your bankruptcy case on or after October 17, 2005, a creditor may ask you to sign a reaffirmation agreement. In addition, if you own secured property, such as a car, you must tell the court whether you intend to sign a reaffirmation agreement. 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, and is called redemption); 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 may wish to sign a reaffirmation agreement, unless the creditor agrees otherwise. If you decide that you cannot afford to keep the property, you may return the property 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 representing you in with regard to the reaffirmation, 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 at least an hour early to get free counsel and advice from a volunteer attorney.

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.