

## QUALIFYING UNDER CHAPTER 7 OR 13 – GUIDE

	Behind on Mortgage Payments and Want to Keep Homestead	Income is Greater Than Median Income (see Chart)	Taxes, Child Support, Student Loans, Fines, etc.	Current on Mortgage Payments and Want to Keep Homestead	Credit Card Debt (Not Secured by Property)	Keep My Car?	Filed Chapter 7 less than 8 Years Ago	Filed Chapter 7 more than 8 Years Ago	Keep Your Non-exempt property? (see Chart)
Chapter 7	? <sup>1</sup>	X	X <sup>2</sup>	✓	✓	? <sup>3</sup>	X	✓	X
Chapter 13	✓	✓	X <sup>2</sup>	✓	? <sup>4</sup>	? <sup>3</sup>	✓	✓	X

<sup>1</sup> ***Can You Keep Your Homestead in a Chapter 7 if You are Behind in Payments?*** Generally, no. A Chapter 7 might release you from your mortgage payment debt on your primary residence (called your homestead) as well as other real estate you own, but the lender is entitled to take back the real estate. However, you might be able to keep your homestead if bankruptcy eliminates all your other debts and you can gather enough funds to pay the past due amounts. However, the lender is *not* required to accept your lump sum payment once you have filed bankruptcy.

<sup>2</sup> ***Debts that Cannot Be Discharged.*** The kinds of debts that most often *cannot* be discharged (meaning, released from paying) are: (a) child support and other domestic support obligations, including property settlement obligations in the divorce decree; (b) student loans; (c) certain taxes; (d) criminal fines and restitution; (e) debts you forget to list in your bankruptcy papers; (f) debts for acts that caused death or personal injury; and (g) certain long-term secured obligations.

<sup>3</sup> ***Can You Keep Your Car?*** Generally, you must allow the bankruptcy trustee (a federal government contractor or employee who oversees your bankruptcy property for the Court) to sell your car and distribute the proceeds to your creditors IF your car's value is \$7,500 or more and the debt you owe on the car does not reduce that amount. For example, if you have a BMW 325i valued at \$36,000, but you owe \$30,000 on the car, then you may keep the car and continue making payments because you own only a \$6,000 value in the car.

<sup>4</sup> ***Does a Chapter 13 wipe out credit card debts and other debts that are not secured by property?*** Yes and no. The payment plan in a Chapter 13 bankruptcy will generally take care of secured creditors first, and non-secured creditors (such as credit card companies) last. If you have enough income to pay the non-secured creditors after all payments have been made to the secured creditors, then a fraction of your payment plan amounts will go to your credit card companies and other non-secured creditors. Note that you might need to sell your non-exempt property to pay your creditors. See Chart titled "Exempt Property."

## MEDIAN INCOME CHART FOR OKLAHOMA (AS OF NOVEMBER 1, 2012)

STATE	1 EARNER	2 PEOPLE	FAMILY SIZE	
			3 PEOPLE	4 PEOPLE *
OKLAHOMA	\$39,841	\$50,529	\$52,415	\$63,069

\* Add \$7,500 for each individual in excess of 4.

For official link to U.S. Trustee's website on Median Income, click on link below:

[http://www.justice.gov/ust/eo/bapcpa/20121101/bci\\_data/median\\_income\\_table.htm](http://www.justice.gov/ust/eo/bapcpa/20121101/bci_data/median_income_table.htm)

## EXEMPT PROPERTY GUIDE

The following property is a list of the most common types of property that are generally (emphasize generally) considered under the Bankruptcy Code to be exempt, meaning that the property cannot be taken by the bankruptcy trustee and sold to pay your debts. For a list of property deemed exempt under Oklahoma law, which is subject to adjustment by the U.S. Bankruptcy Court, click on this link. A summary follows.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=71487>

1. House that is the personal residence (equity limits).
2. Vehicle/car with equity of \$7,500 or less.
3. Clothing valued at \$4,000 or less.
4. Wedding and anniversary rings of \$3,000 or less.
5. Household furnishings and personal computers (limits).
6. Guns for personal use of \$2,000 or less.
7. Books, portraits, pictures.
8. Alimony, child support (limits).
9. Farm implements and tools of trade, \$10,000 or less.
10. Burial plots.
11. Qualified retirement plans.
12. Pension -- fireman, police, county empl., justice, judges.
13. Wages: 75% earned in last 90 days for certain services.
14. Unemployment compensation.
15. Public assistance.
16. Claim for personal injury of \$50,000 or less.
17. Workers' compensation payments received.
18. Livestock, limited to the following (everyone has these, right?):
  - a. Five milk cows and calves under six months;
  - b. One hundred chickens
  - c. Two horses, two bridles, two saddles
  - d. Ten hogs, 20 sheep