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In Brief...

A quarterly newsletter brought to you by the Massachusetts Laborers' Legal Services Fund

RECENT DEVELOPMENTS

New Massachusetts Law Requires Carbon Monoxide Detectors

This new law, effective March 31, 2006, is called "Nicole's Law", named after 7 year old Nicole Garofalo who died on January 28, 2005 when her home in Plymouth, Massachusetts was filled with deadly amounts of carbon monoxide because the furnace vents were blocked by snow during a power outage. This law requires building with enclosed parking areas or equipment such as boilers, furnaces or hot water heaters powered by gas, coal, oil or wood to have carbon monoxide detectors on every level of the home and within ten feet of each sleeping area and in portions of the basement and attic which are habitable. The carbon monoxide detectors may be any of the following: battery operated with battery monitoring, plug-ins with battery backup, hard-wired with battery backup, low voltage system, wireless, or the qualified combination (smoke/carbon monoxide alarm). If the qualified combination is chosen it must have simulated voice and tone alarms that clearly distinguish between the two types of emergencies.

Landlords must inspect, maintain, and replace, if necessary, required carbon monoxide alarms annually and at the beginning of any rental period. Tenants should report problems with detectors to the landlord immediately and learn to recognize the difference between the smoke alarm and the carbon monoxide detector.

According to the U.S. Consumer Product Safety Commission (CPSC), an acceptable level of carbon monoxide is 15 parts per millions (PPM) average over a time span of eight hours or a 22 PPM average for an hour. If you have 1,000 PPM for over thirty minutes, it puts you at a high level of danger in the form of a collapse into a coma or permanent brain damage. Carbon monoxide is a

colorless, odorless gas that results from incomplete combustion of fossil fuels such as gas, propane, oil, wood, coal and gasoline.

DISCUSSION AND HIGHLIGHTS OF NEW BANKRUPTCY LAW

Declaring Bankruptcy.

Almost anyone may seek relief from debts by declaring bankruptcy. Bankruptcy is a federal court process designed to help consumers eliminate their debts or repay them under the protection of the bankruptcy court. Bankruptcies can generally be described as "liquidations" or "reorganizations." Both kinds of bankruptcy have numerous rules about what kinds of debts are covered, who can file, and what property you can and cannot keep. Passage of the Bankruptcy Prevention and Consumer Protection Act in April 2005 has resulted in major reforms in bankruptcy law that effect every potential bankruptcy filer. Some of the changes include:

- Increased documentation requirements for debtors, who now must provide 6 months worth of income history and 4 years of tax returns.
- Mandatory credit counseling that debtors must receive before and after filing for bankruptcy.
- "Means testing" which dictates that debtors with high earnings must file a Chapter 13 bankruptcy which requires at least partial repayment of even unsecured debts such as credit cards.

Chapter 7 Bankruptcy: Liquidation

Liquidation bankruptcy is called Chapter 7, and it can be filed by individuals (a "consumer" Chapter 7 bankruptcy) who are current on mortgage payments and have household income below the "means test" standards. A Chapter 7 bankruptcy typically lasts three to six months.

In a Chapter 7 bankruptcy, most or all of unsecured debts (that is, debts for which collateral has not been pledged) will be erased. Debtors get to keep any property that is classified as "exempt" under the state or federal laws available (such as clothes, car, household furnishings, most bank and retirement accounts). If debtors don't own many assets, chances are that all of the property is exempt and it will be what is known as a "no asset" case. If a debtor owns a home and is current on the mortgage payments, the home will also be exempt.

Not everyone can file for Chapter 7 bankruptcy. For example, if your disposable income is sufficient to fund a



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Chapter 13 repayment plan, after subtracting certain allowed expenses and monthly payments for certain debts (including child support and debts that secure property), to fund a Chapter 13 repayment plan, you won't be allowed to use Chapter 7.

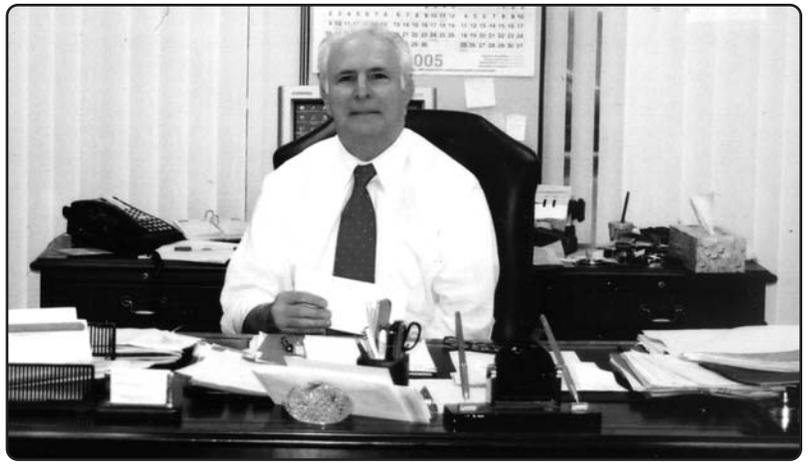
Chapter 13: Reorganization

Chapter 13 bankruptcy is also known as "wage earner" bankruptcy because, in order to file for Chapter 13, you must have a reliable source of income that you can use to repay all of your mortgage arrears and some portion of your other debt. When you file for Chapter 13 bankruptcy you propose a repayment plan that details how you are going to pay back your debts through the Court over the next three to five years. The minimum amount you will have to repay is based primarily on how much you earn and how much you owe.

Many Chapter 13 bankruptcies are filed by people whose homes are in or near foreclosure. If you are behind on secured debts, Chapter 13 gives you an option to make up missed payments to avoid repossession or foreclosure. You can include these past due amounts in your repayment plan and make them up over time.

What actions may creditors take?

After a bankruptcy proceeding is filed, an "automatic stay" goes into effect which prevents creditors, for the most part, from seeking to collect their debts without the permission of the bankruptcy court. Most unsecured creditors (credit card, medical bills, etc.) will not pursue collection once a bankruptcy case is filed.



Bankruptcy doesn't work on some kinds of debts.

Though bankruptcy can eliminate many kinds of debts, such as credit card debt, medical bills, and unsecured loans, there are many types of debts that cannot be wiped out in bankruptcy, including child support, alimony, student loans, criminal fines, recent luxury purchases and most tax debts.

Consequences of Bankruptcy

A debtor may not be fired from a job because of filing for bankruptcy. However, creditors may take a past bankruptcy into consideration when deciding whether to extend credit. Many creditors regard a person who has filed for bankruptcy to be a higher credit risk and may either refuse to extend credit or only extend credit on less favorable terms. Bankruptcy filings remain on a consumer's credit report for 7 to 10 years. It usually takes at least three years to reestablish your credit rating, though some credit grantors will extend credit after eighteen months.

The decision to declare bankruptcy should be carefully considered. Before declaring bankruptcy, an individual should determine both personal and family needs, evaluate assets and obligations, and consider alternatives, such as negotiation and settlement with creditors.

THIS NEWSLETTER IS INTENDED AS INFORMATION ONLY NOT SPECIFIC LEGAL ADVICE.

Statements or questions please contact us at:
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