



Innovation, Science and  
Economic Development Canada

Office of the Superintendent  
of Bankruptcy Canada

Innovation, Sciences et  
Développement économique Canada

Bureau du surintendant  
des faillites Canada

# Consumed by debt?

## Considering a fresh start?

Information for consumers on the insolvency process



Protecting the  
integrity of the  
Insolvency System

Protéger l'intégrité  
du système  
d'insolvabilité

Canada 

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*Songez-vous à repartir à neuf? Information sur la procédure*  
*d'insolvabilité à l'intention des consommateurs*  
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# Having a personal financial crisis?

Some of us will face a personal financial crisis during our lives. We may be able to solve some money problems ourselves, but other times we need professional help. It could be a problem that became worse over time. Or it could have happened suddenly because of job loss, a serious illness, a marriage breakup or other major life event.

Whatever the cause, if you cannot pay your personal bills or debts, you have options.

## Recognize the danger signals

You have a debt problem, or are going to have one, if:

- you continually go over your spending limit or you use your credit cards as a necessity rather than a convenience.
- you are always borrowing money to make it from one payday to the next.
- you pay only interest or service charges monthly and do not reduce your total debt over many months.
- creditors pressure you for payment, have obtained a wage garnishment, threaten to sue or repossess your car, furniture or television, or hire a collection agency to recover the money for them.
- utility companies cut off service because your bills have gone unpaid.



# Contact a Licensed Insolvency Trustee

## Meet with a Licensed Insolvency Trustee to go over all of your options

If you are facing serious financial difficulties, you will want to meet with a Licensed Insolvency Trustee (LIT). When you meet with an LIT, bring all the information about your financial situation: credit card statements, bank statements, mortgage records, loan documents, etc. An LIT will explain the merits and outcomes of the various options available to you. Typically, LITs do not charge for this first meeting.

The LIT represents a balance of interests between you and your creditors and is an officer of the court. In addition to helping you assess your situation, the LIT will give you information and advice about both the proposal and bankruptcy processes and plays an impartial role in ensuring your rights, as well as those of the creditors, are respected.

### What is a Licensed Insolvency Trustee?

A Licensed Insolvency Trustee (LIT) is the only professional authorized to administer government-regulated insolvency proceedings that allow you to be discharged from your debt, such as a consumer proposal or a bankruptcy.

When you choose an LIT, you can be confident that you are dealing with someone who has demonstrated that they have the knowledge, experience and skills to be granted a licence from the Office of the Superintendent of Bankruptcy.

An LIT:

- Reviews the affairs of consumers having financial difficulties and provides a full range of options.
- Deals with creditors on your behalf.
- Safeguards the rights of the consumer from abuse.

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### To find a Licensed Insolvency Trustee in your area:

- Search the Licensed Insolvency Trustee database available on the Canada.ca website.
- Look in the Yellow Pages – [www.yellowpages.ca](http://www.yellowpages.ca) – under Licensed Insolvency Trustee.

### Know the difference between a Licensed Insolvency Trustee and a debt consultant

	Licensed Insolvency Trustee	Debt Consultant
Free first consultation	✔	?
Can file a consumer proposal	✔	✘
Can file a bankruptcy	✔	✘
Federally licensed	✔	✘
Federally regulated	✔	✘
Experience and education assessed by the government	✔	✘
Regulated fees	✔	✘
Formal complaint mechanism	✔	?
Financial counselling provided	✔	✘



# Understanding the consumer proposal and bankruptcy process

There are a variety of possible solutions to your financial crisis. This section provides information about two formal solutions supervised by the Office of the Superintendent of Bankruptcy (OSB): the consumer proposal and the bankruptcy, which offer legislative protection under Canada's *Bankruptcy and Insolvency Act*. Both solutions allow the honest, but unfortunate debtor to be discharged from most of their debts.

## Consumer proposal

If your total debts are less than \$250,000 (not including your mortgage), a consumer proposal may be the right choice for you.

A consumer proposal is a plan to pay your creditors a percentage of what is owed to them or to extend the time you have to pay off your debts, or both.

With this option, you make payments to a Licensed Insolvency Trustee (LIT), and then this money is divided among your creditors.

Under the law, you cannot take longer than five years to make the payments set out in a consumer proposal.

## Why file a consumer proposal?

A consumer proposal can help you solve your money problems without having to declare bankruptcy. Unlike a bankruptcy, if your creditors accept your proposal and, as long as you follow the terms of your proposal, you will be able to keep your assets (e.g., any savings or investments, your car, your house, etc.).

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## Your creditors must agree to the proposal

The LIT handling your filing will work with you to develop a proposal that is more likely to be approved by your creditors. Your LIT will file the proposal with the OSB. The LIT will also give a copy of the proposal to your creditors, along with a report on your personal situation and the causes of your financial difficulties.

Your creditors are given 45 days to either accept or reject your consumer proposal.

### If your proposal is accepted:

- you will be responsible for paying either a lump sum or periodic payments to the LIT and keeping to any other conditions in the proposal;
- you keep your assets so long as you make your payments to your secured creditors;
- you must attend two mandatory counselling sessions; and
- the proposal will be on your credit record for the duration of the proposal term plus another six to seven years, depending on the province where you live.

If your proposal is not accepted, your LIT will work with you to make changes to the proposal and resubmit it. Or you may be able to look at other options for solving your financial problems, including filing for bankruptcy.

Once the proposal is filed with the OSB, you stop making payments to the creditors of your unsecured debts. Plus, if your creditors are using a wage garnishment process, or have filed lawsuits against you, these actions are stopped.

At the end of the time period for your proposal and as long as you have met all the payment terms and conditions, you will be legally released from the debts included in the proposal.

### NOTE:

If you owe more than \$250,000, you have the option of filing a different type of proposal, called a "Division I" proposal. But unlike a consumer proposal, if a Division I proposal is not accepted by your creditors, you become bankrupt automatically.

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## Bankruptcy

Bankruptcy is also a legal process that can be accessed through a Licensed Insolvency Trustee (LIT). You should file for bankruptcy only as a last resort – when you cannot meet your financial obligations and cannot solve your debt problems any other way. It is important to understand what you would need to do to file for bankruptcy, as well as what effects it would have on you.

The LIT will help you complete the required forms. Once they have been filed and the Official Receiver working at the OSB has reviewed and accepted the bankruptcy, you will be formally declared bankrupt. From that point on, the LIT will deal directly with your creditors. Calls from creditors or collection agencies should also stop. If they don't, direct them to speak to your LIT. An LIT can give you further information that applies to your particular case.

When you declare bankruptcy, you are responsible for cooperating with the LIT during the bankruptcy process and providing all required information.

When you become bankrupt, the LIT takes possession of all of your assets over and above those exempt under provincial or territorial law, such as household goods, clothing and tools of your trade.

The assets that you turn over to the LIT will be sold, and the money will be used to pay your creditors and fees related to your bankruptcy.

### **Mandatory counselling**

If you file for bankruptcy or if you file a consumer proposal, you will be required to attend two counselling sessions led by a qualified counsellor or a Licensed Insolvency Trustee. These sessions will help you to manage your future financial affairs.

### **Fees**

You will need to pay fees to file a consumer proposal or bankruptcy. Fees vary on a case-by-case basis and are regulated by the federal government.





# Understanding the discharge from bankruptcy

A bankruptcy discharge is the final step in a bankruptcy. Once you are discharged from bankruptcy, you will be released from the legal obligation to repay most of the debts you had when you were declared bankrupt. Certain types of debts will not be forgiven such as alimony, support payments or court-imposed fines, penalties or restitution orders.

Obtaining a discharge will take nine months or longer, depending on your situation and your cooperation with the Licensed Insolvency Trustee (LIT) throughout the process.

## **What happens to your credit rating if you file a proposal or declare bankruptcy?**

Credit bureaus are notified when a bankruptcy or proposal is filed. A consumer proposal will be on your credit record for the duration of the proposal term plus another six to seven years, with variation depending on your province of residence. Information about a first bankruptcy is usually removed from your credit report six or seven years after you have been discharged from bankruptcy, depending on which province you live in.

## **Consumer proposal and bankruptcy records remain public**

When you file a proposal or declare bankruptcy, your name becomes part of public bankruptcy and insolvency records. These records are accessible to anyone who makes a request for the information.

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## **Sometimes the discharge from bankruptcy is automatic**

Whether or not your discharge happens automatically depends on a number of factors.

If this is your first bankruptcy, you will be automatically discharged from bankruptcy nine months after filing as long as:

- 1) your discharge is not opposed by the LIT, or by a creditor, or the Office of the Superintendent of Bankruptcy (OSB); and
- 2) you have not refused or neglected to receive counselling; and
- 3) you are not required to pay a portion of your surplus income as per the standard established by the OSB. If you have to make payments to your LIT for surplus income, you will be eligible for an automatic discharge after contributing part of this income for 21 months. If you do not qualify for an automatic discharge, you will be required to go to court to attend a discharge hearing.

## **Bankruptcy-related mediation**

Bankruptcy-related mediation is available to help resolve disputes between a person who has declared bankruptcy and their LIT regarding surplus income payments. Under certain circumstances, mediation is also available if a creditor opposes a discharge. For more information, visit the OSB via the [Canada.ca](http://Canada.ca) website.



# About the Office of the Superintendent of Bankruptcy

The Office of the Superintendent of Bankruptcy (OSB) is responsible for administration of the *Bankruptcy and Insolvency Act*, as well as certain duties under the *Companies' Creditors Arrangement Act*. We license and regulate the insolvency profession, ensure an efficient and effective regulatory framework, supervise stakeholder compliance with the insolvency process, and maintain public records and statistics.

## Questions and complaints

If you have questions about proposals, the bankruptcy process and other related matters, speak to a Licensed Insolvency Trustee (LIT), or contact the OSB by phone, or via the [Canada.ca](http://Canada.ca) website.

The OSB is also responsible for recording and, where appropriate, investigating complaints against LITs, debtors and creditors. To file a complaint, you can either contact the OSB by phone, or via the [Canada.ca](http://Canada.ca) website.

### **1-877-376-9902**

1-866-694-8389 (for hearing impaired)  
(8:30 a.m. to 4:30 p.m. – Monday to Friday)

