

11 USC §506. Determination of secured status

- (a)(1) An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under [section 553](#) of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to setoff is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.
- (2) If the debtor is an individual in a case under [chapter 7](#) or [13](#), such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.
- (b) To the extent that an allowed secured claim is secured by property the value of which, after any recovery under subsection (c) of this section, is greater than the amount of such claim, there shall be allowed to the holder of such claim, interest on such claim, and any reasonable fees, costs, or charges provided for under the agreement or State statute under which such claim arose.
- (c) The trustee may recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving, or disposing of, such property to the extent of any benefit to the holder of such claim, including the payment of all ad valorem property taxes with respect to the property.
- (d) To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void, unless--
- (1) such claim was disallowed only under [section 502\(b\)\(5\)](#) or [502\(e\)](#) of this title; or
 - (2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under [section 501](#) of this title.

11 USC § 527. Disclosures

a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide--

(1) the written notice required under [section 342\(b\)\(1\)](#); and

(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that--

(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in [section 506](#) must be stated in those documents where requested after reasonable inquiry to establish such value;

(C) current monthly income, the amounts specified in [section 707\(b\)\(2\)](#), and, in a case under [chapter 13](#) of this title, disposable income (determined in accordance with [section 707\(b\)\(2\)](#)), are required to be stated after reasonable inquiry; and

(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

"If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

"If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

"If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

"If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

"Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice."






(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to [section 521](#), including—

- (1) how to value assets at replacement value, determine current monthly income, the amounts specified in [section 707\(b\)\(2\)](#) and, in a chapter 13 case, how to determine disposable income in accordance with [section 707\(b\)\(2\)](#) and related calculations;
- (2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and
- (3) how to determine what property is exempt and how to value exempt property at replacement value as defined in [section 506](#).

d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.

11 U.S.C. § 521. Debtor's duties.

(a) The debtor shall--

- (1) file--
 - (A) a list of creditors; and
 - (B) unless the court orders otherwise--
 - (i) a schedule of assets and liabilities;
 - (ii) a schedule of current income and current expenditures;
 - (iii) a statement of the debtor's financial affairs and, if [section 342\(b\)](#) applies, a certificate--
 - (I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under [section 110\(b\)\(1\)](#), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by [section 342\(b\)](#); or
 - (II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;
 - (iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;
 - (v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and
 - (vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;
- (2) if an individual debtor's schedule of assets and liabilities includes  debts which are secured by property of the estate--
 - (A) within thirty days after the date of the filing of a petition under [chapter 7](#) of this title or on or before the date of the meeting of creditors, whichever is earlier, or within such additional time as the court, for cause, within such period fixes, the debtor shall file with the clerk a statement of his intention with respect to the retention or surrender of such property and, if applicable, specifying that such property is claimed as exempt, that the debtor intends to redeem such property, or that the debtor intends to reaffirm debts secured by such property;
 - (B) within  30 days after the first date set for the meeting of creditors under [section 341\(a\)](#), or within such additional time as the court, for cause, within such  30-day period fixes, the debtor shall perform his intention with respect to such property, as specified by subparagraph (A) of this paragraph; and
 - (C) nothing in subparagraphs (A) and (B) of this paragraph shall alter the debtor's or the trustee's rights with regard to such property under this title, except as provided in [section 362\(h\)](#);
- (3) if a trustee is serving in the case or an auditor serving under [section 586\(f\) of title 28](#), cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title;
- (4) if a trustee is serving in the case or an auditor serving under [section 586\(f\) of title 28](#), surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate, whether or not immunity is granted under [section 344](#) of this title ;
- (5) appear at the hearing required under [section 524\(d\)](#) of this title ;
- (6) in a case under [chapter 7](#) of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in such personal property unless the debtor, not later than 45 days after the first meeting of creditors under [section 341\(a\)](#), either--
 - (A) enters into an agreement with the creditor pursuant to [section 524\(c\)](#) with respect to the claim secured by such property;
 - or
 - (B) redeems such property from the security interest pursuant to [section 722](#).

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under [section 362\(a\)](#) is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee filed before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee; and








- (7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.
- (b) In addition to the requirements under [subsection \(a\)](#), a debtor who is an individual shall file with the court--
- (1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under [section 109\(h\)](#) describing the services provided to the debtor; and

- (2) a copy of the debt repayment plan, if any, developed under [section 109\(h\)](#) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).
- (c) In addition to meeting the requirements under [subsection \(a\)](#), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).
- (d) If the debtor fails timely to take the action specified in [subsection \(a\)\(6\)](#) of this section, or in paragraphs (1) and (2) of [section 362\(h\)](#), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under [section 522\(f\)](#), [544](#), [545](#), [547](#), [548](#), or [549](#), nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.
- (e)(1) If the debtor in a case under [chapter 7](#) or [13](#) is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.
- (2)(A) The debtor shall provide—
- (i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and
 - (ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.
- (B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.
- (C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.
- (3) If a creditor in a case under [chapter 13](#) files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of the plan—
- (A) at a reasonable cost; and
 - (B) not later than 5 days after such request is filed.
- (f) At the request of the court, the United States trustee, or any party in interest in a case under [chapter 7](#), [11](#), or [13](#), a debtor who is an individual shall file with the court—
- (1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;
 - (2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;
 - (3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and
 - (4) in a case under [chapter 13](#)—
 - (A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and
 - (B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of the plan;
- a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.
- (g)(1) A statement referred to in [subsection \(f\)\(4\)](#) shall disclose--
- (A) the amount and sources of the income of the debtor;
 - (B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and
 - (C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.
- (2) The tax returns, amendments, and statement of income and expenditures described in [subsections \(e\)\(2\)\(A\)](#) and [\(f\)](#) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for

inspection and copying, subject to the requirements of Section 315 (c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

- (h) If requested by the United States trustee or by the trustee, the debtor shall provide—
- (1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or
 - (2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.
- (i)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition.
- (2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.
- (3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the date of the filing of the petition described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.
- (4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.
- (j)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.
- (2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.

11 U.S.C. 109. Who may be a debtor.

- (a) Notwithstanding any other provision of this section, only a person that resides or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.
- (b) A person may be a debtor under [chapter 7](#) of this title only if such person is not—
- (1) a railroad;
 - (2) a domestic insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, a New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958, a small business investment company licensed by the Small Business Administration under  section 301 of the Small Business Investment Act of 1958, credit union, or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act, except that an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or  (3)(A) a foreign insurance company, engaged in such business in the United States; or (B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.
- (c) An entity may be a debtor under [chapter 9](#) of this title if and only if such entity—
- (1) is a municipality;
 - (2) is specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by State law, or by a governmental officer or organization empowered by State law to authorize such entity to be a debtor under such chapter;
 - (3) is insolvent;
 - (4) desires to effect a plan to adjust such debts; and
 - (5)(A) has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;
 - (B) has negotiated in good faith with creditors and has failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;
 - (C) is unable to negotiate with creditors because such negotiation is impracticable; or
 - (D) reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under [section 547](#) of this title.
- (d) Only a railroad, a person that may be a debtor under [chapter 7](#) of this title (except a stockbroker or a commodity broker), and an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor under [chapter 11](#) of this title.
- (e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$250,000 [ \$307,675] and noncontingent, liquidated, secured debts of less than \$750,000 [ \$922,975], or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts that aggregate less than \$250,000 [ \$307,675] and noncontingent, liquidated, secured debts of less than \$750,000 [ \$922,975] may be a debtor under [chapter 13](#) of this title. [Dollar amounts in this paragraph are adjusted on April 1 every 3 years by [section 104](#). Adjusted amounts for  4-1-04 are in brackets.]
- (f) Only a family farmer or family fisherman with regular annual income may be a debtor under [chapter 12](#) of this title.
- (g) Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if—
- (1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or
 - (2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by [section 362](#) of this title.
- (h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in [section 111\(a\)](#) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.
- (2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).
 - (B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than


annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.



- (3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that--
- (i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);
 - (ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and
 - (iii) is satisfactory to the court.
- (B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.
- (4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).

11 U.S.C. § 707. Dismissal of a case or conversion to a case under Chapter 11 or 13

(a) The court may dismiss a case under this chapter only after notice and a hearing and only for cause, including--

- (1) unreasonable delay by the debtor that is prejudicial to creditors;
- (2) nonpayment of any fees or charges required under [chapter 123 of title 28](#); and
- (3) failure of the debtor in a voluntary case to file, within fifteen days or such additional time as the court may allow after the filing of the petition commencing such case, the information required by [paragraph \(1\)](#) of [section 521](#), but only on a motion by the United States trustee.



(b)(1) After notice and a hearing, the court, on its own motion or on a motion by the United States trustee,  trustee (or bankruptcy

administrator, if any), or any party in interest, may dismiss a case filed by an individual debtor under this chapter whose debts are primarily consumer debts, or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title, if it finds that the granting of relief would be  an abuse of the provisions of this chapter.  In making a determination whether to

dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of "charitable contribution" under [section 548\(d\)\(3\)](#)) to any qualified religious or charitable entity or organization (as that term is defined in [section 548\(d\)\(4\)](#)).

(2)(A)(i) In considering under [paragraph \(1\)](#) whether the granting of relief would be an abuse of the provisions of this chapter,

the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under [clauses \(ii\)](#), [\(iii\)](#), and [\(iv\)](#), and multiplied by 60 is not less than the lesser of--

- (I) 25 percent of the debtor's nonpriority unsecured claims in the case, or \$6,000 [ \$6,000 (added by BAPCPA 10-17-05)], whichever is greater; or
- (II) \$10,000 [ \$10,000 (added by BAPCPA 10-17-05)].

(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the [National Standards](#) and [Local Standards](#), and the debtor's actual monthly expenses for the categories specified as

resides, as in [Other Necessary Expenses](#) issued by the [Internal Revenue Service](#) for the area in which the debtor


effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the debtor, the spouse of the debtor, or the dependents of the debtor. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under [section 309 of the Family Violence Prevention and Services Act](#), or

other

applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the [Executive Office for United States Trustees](#).

(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed \$1,500 [ \$1,500 (added by BAPCPA 10-17-05)] per year per child, to attend a

private

or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the [National Standards](#), [Local Standards](#), or [Other Necessary Expenses](#) referred to in

[subclause \(I\)](#).

(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the

allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of--

(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under [chapter 13](#) of this

title,

to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts;

divided by 60.

(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide--

(I) documentation for such expense or adjustment to income; and


(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in [clause \(i\)](#) cause the product of the debtor's current monthly income reduced by the amounts determined under

clauses

[\(ii\)](#), [\(iii\)](#), and [\(iv\)](#) of subparagraph (A) when multiplied by 60 to be less than the lesser of--

(I) 25 percent of the debtor's nonpriority unsecured claims, or \$6,000 [ \$6,000 (added by BAPCPA 10-17-05)], whichever is greater; or

(II) \$10,000 [ \$10,000 (added by BAPCPA 10-17-05)].

(C) As part of the schedule of current income and expenditures required under [section 521](#), the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under [subparagraph \(A\)\(i\)](#), that show how each such amount is calculated.

(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if the debtor is a disabled veteran (as defined in [section 3741\(1\) of title 38](#)), and the indebtedness occurred primarily during a period during which he or she was--

(i) on active duty (as defined in [section 101\(d\)\(1\) of title 10](#)); or

(ii) performing a homeland defense activity (as defined in [section 901\(1\) of title 32](#)).

(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not arise or is rebutted, the court shall consider--

(A) whether the debtor filed the petition in bad faith; or

(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in [rule 9011](#) of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under [section 707\(b\)](#), including reasonable attorneys' fees, if--

(i) a trustee files a motion for dismissal or conversion under this subsection; and

(ii) the court--

(I) grants such motion; and

(II) finds that the action of the attorney for the debtor in filing a case under this chapter violated [rule 9011](#) of the

Federal

Rules of Bankruptcy Procedure.

(B) If the court finds that the attorney for the debtor violated [rule 9011](#) of the Federal Rules of Bankruptcy

Procedure,

the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order--

(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if

any).

- (C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has--
 - (i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and
 - (ii) determined that the petition, pleading, or written motion--
 - (I) is well grounded in fact; and
 - (II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).
- (D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.


(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in [rule 9011](#) of the Federal Rules of Bankruptcy Procedure,

may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—

(i) the court does not grant the motion; and

(ii) the court finds that--

- (I) the position of the party that filed the motion violated [rule 9011](#) of the Federal Rules of Bankruptcy Procedure; or
- (II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

(B) A small business that has a claim of an aggregate amount less than \$1,000 [ \$1,000 (added by BAPCPA 10-17-05)] shall not be subject to subparagraph (A)(ii)(I).

(C) For purposes of this paragraph--

(i) the term "small business" means an unincorporated business, partnership, corporation, association, or organization that--

- (I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and
- (II) is engaged in commercial or business activity; and


(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of--

- (I) a parent corporation; and
- (II) any other subsidiary corporation of the parent corporation.

(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than--

(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 [ \$525 (added by BAPCPA 10-17-05)] per month for each individual in


excess

of 4.

(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor, including a veteran (as that term is defined in section 101 of title 38), and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than--

(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 [ \$525 (added by BAPCPA 10-17-05)] per month for each individual

in

excess of 4.

(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if--

(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

(ii) the debtor files a statement under penalty of perjury--

(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.

(c)(1) In this subsection--

(A) the term "crime of violence" has the meaning given such term in [section 16 of title 18](#); and

(B) the term "drug trafficking crime" has the meaning given such term in [section 924\(c\)\(2\) of title 18](#).

- (2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.
- (3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.