

Chapter 11 Bankruptcy

A Chapter 11 Bankruptcy is often referred to as a “reorganization” and generally involves a corporation or partnership, but may also involve a qualifying individual debtor. In a Chapter 11, the formulation and confirmation of a Chapter 11 Plan of Reorganization is the focus of the proceeding with the goal of establishing the priority and amount of payments to be made to creditors during the term of the Plan of Reorganization.

Upon the filing of a Chapter 11 case, the debtor becomes a “debtor in possession,” and generally keeps possession and control of its assets during the reorganization, without the appointment of a Trustee. 11 U.S.C. § 1101. Chapter 11 proceedings may also include additional proceedings to protect creditor rights and property because the debtor occupies this position.

Since Chapter 11 allows debtors to remain in possession of their assets and was designed primarily for corporations, partnerships and other business entities, the obligations and duties imposed on Chapter 11 debtors in possession are significant. A Chapter 11 bankruptcy case take longer and are, in most cases, significantly more expensive then either a Chapter 7 or Chapter 13 bankruptcy

The same automatic stay provisions cited above apply to Chapter 11 bankruptcies, including enforcement of pre-bankruptcy claims, judgments, collection activities, foreclosures and levies or repossession of property. 11 U.S.C. § 362(a).

If a Plan or Reorganization is approved by the court, all parties, including the debtor and creditors are bound to its provisions. The terms of the Reorganization Plan supersede the original debt obligation with regard to required payments.. 11 U.S.C. §1141.

For non-individual debtors, a discharge is generally entered upon confirmation of the Plan of Reorganization. For individual Chapter 11 debtors, a discharge is not available until all payments have been made under the Plan (same as Chapter 13). 11 U.S.C. § 1141(d)(5).