

Will my payday loans be wiped out in my bankruptcy?

I've taken out several payday loans that I can't pay back and now I owe them a lot of money as well as owe a lot of other money. Will those payday loans go away if I file bankruptcy?

Payday loans are short-term loans with a very high interest rate. If you can't pay them off as planned, they can become a large debt burden. To get those loans, you give the lender a post-dated check which they will deposit if you don't make the payments. In the case of online payday lenders, you agree to let them take their money from your bank account if you don't keep up with the payments.

You may not owe enough on payday loans to make it worthwhile to file bankruptcy, but if you also have debts from credit cards and other things, possibly bankruptcy would be valuable for you. Your entire financial situation would need to be reviewed by an experienced bankruptcy attorney, but for now let's say that you've decided to file bankruptcy and are wondering about your payday loans.

Many pages have been written on this subject which you can find on the internet, but here's the short version.

1. In general, your payday loans would be treated just as any other unsecured debts (like credit cards) and would be discharged (eliminated) in your bankruptcy.
2. The post-dated check you gave them (or the agreement to take the funds from your bank account) should be dealt with before you file bankruptcy by closing that bank account. But first open a new one so you know you have some place to put the money from that old account. If you don't do this, the payday lender will simply cash the check and take the money. You might be able to get that money back by suing the lender as a part of your bankruptcy case (called an adversary proceeding) but that might cost more than the amount of money taken by the lender. It's much better to just avoid the problem.
3. If you took out a payday loan close to filing bankruptcy, the lender could claim that you knew at the time that you weren't able to pay it back. The lender may not bother to claim that, but I'd prefer that you wait three months after the last payday loan to file bankruptcy.
4. You will NOT go to jail for causing the post-dated check to bounce. The lender knew at the time it took your check that you didn't have money in the account to cover it, so it wouldn't become a "bad check" in the criminal sense regardless of what the payday lender may tell you.

Of course the best advice is to never take these very expensive payday loans. It's too late for that to help now, but think about it in the future.

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