

Student Loans

Changes to the Bankruptcy and Insolvency Act that came into effect on July 7, 2008 reduced the time frames for dealing with student loan debt.

Under the new legislation, if you have been out of school for more than seven years at the time of filing a proposal or bankruptcy the student loan debts will automatically be discharged (upon receiving a discharge from bankruptcy or full performance in a proposal). The end of study date (the last date that you are in school either with loans or without) is the date that starts the seven year time period. Student loans can provide you with this date if you contact them. It is important to know what date they have listed as your end of study date so it is a good idea to contact them to find out.

If a student loan is less than seven years old at the time of the filing of either a bankruptcy or proposal it will not be discharged upon completion of the bankruptcy or proposal. What this means is that while you are in bankruptcy or completing your proposal you will be protected from collection action (ie. student loans or their collection agents will not be able to call you, ask for payments, garnishee tax refunds or wages etc). However, once the proposal or bankruptcy is completed the debt will still exist (plus interest). They will be able to resume collection action at this point.

Once you have been out of school for more than five years an application can be made to the court to have the student loan debts discharged. This does not require the filing of a new bankruptcy or proposal. If the court approves the application the debts will be discharged based on the bankruptcy or proposal that has already been completed.

If you have a student loan that is less than seven years old and you are having difficulty making payments or are having trouble with collection agents phoning and demanding payments there are ways to deal with it. A long term proposal (up to 5 years) can be made to help you get to the five year mark to be eligible to make a Court Application. If you are fairly close to the five year point a bankruptcy can give you protection for the remainder of the time period. After you reach the five year period (and the proposal or bankruptcy is completed) you can then make an application to the Court to have the debt completely discharged.