Crowe Soberman™

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# Understanding Consumer Proposals

If you are an individual and your total debts do not exceed $250,000 (not including debts such as a mortgage secured by your principal residence), a consumer proposal might be the right choice for you.

## What is a consumer proposal?

A consumer proposal is a formal, legally binding process that is administered by a bankruptcy trustee. In this process, the trustee will work with you to develop a "proposal"—an offer to pay creditors a percentage of what is owed to them, or extend the time you have to pay off the debts, or both. The term of a consumer proposal cannot exceed five years.

Payments are made through the trustee, and the trustee uses that money to pay each of your creditors.

### When is a consumer proposal appropriate?

### Tip

To find out if a consumer proposal (or a different option) is the right choice for you, set up a meeting with a trustee to discuss your personal circumstances.

The trustee will evaluate your financial situation and explain the pros and cons of the various options that could help you solve your financial problems.

If you decide to submit a consumer proposal, the trustee will work with you to develop a proposal that works for both you and your creditors.

Below is an explanation of what happens when you file a consumer proposal.

#### Your responsibilities

If you file a consumer proposal, you must

- give the trustee a complete list of all of your assets (property) and liabilities (debts);
- attend the first meeting of creditors, if a meeting is requested (see below);

- attend two counselling sessions;
- advise the trustee in writing of any address change; and
- generally assist the trustee in administering the proposal.

# How a consumer proposal works

1. The trustee will file the proposal with the Office of the Superintendent of Bankruptcy (OSB). Once your proposal is filed, you stop making payments directly to your unsecured creditors. In addition, if your creditors are collecting your salary (garnishing your wages) or have filed lawsuits against you, these actions are stopped.
2. The trustee will submit the proposal to your creditors. The proposal will include a report on your personal situation and the causes of your financial difficulties.
3. Creditors then have 45 days to either accept or reject the proposal. They can also do this either prior to or at the meeting of creditors, if one is held.

## When is a meeting of creditors held?

A meeting of creditors is held if one is requested by one or more creditors provided they are owed at least 25% of the total value of the proven claims.

A request for a meeting must be made by the creditors within 45 days of the filing of the proposal. The OSB can also direct the trustee to call a meeting of creditors at any time within that same period.

The meeting of creditors must be held within 21 days after being called. At the meeting, the creditors vote to either accept or refuse the proposal.

**If no meeting of creditors is requested** within 45 days of the filing of the proposal, the proposal will be deemed to have been accepted by the creditors—regardless of any objections received.

## Understanding the vote to accept or refuse the proposal

At the meeting of creditors, a creditor's acceptance or refusal of a proposal counts as a vote, provided it is received at or before the meeting. (If there is no meeting, an objection does not count as a vote on the proposal.)

The number of votes corresponds to the total dollar value of the proven claims. The vote is decided by a simple majority of this dollar value (i.e., 50% plus 1). For example, if the proven claims total $150,000, and if the creditors who vote to accept the proposal are together claiming at least $75,001, then the proposal will be deemed accepted and all other unsecured creditors must accept it as well. (In the event there is no quorum of creditors at the meeting, the proposal will be deemed accepted.)

If your proposal is accepted, the OSB (or any other interested party) has 15 days to ask the trustee to apply to the court to have the proposal reviewed. If no such request is made, the proposal will be deemed to have been approved by the court.

## If your consumer proposal is accepted

If your consumer proposal is accepted, you will

- be responsible for paying either a lump sum or periodic payments to the trustee;
- be required to adhere to any other conditions in the proposal;
- retain your assets (provided you make your payments to your secured creditors); and
- be required to attend two financial counselling sessions.

## If your consumer proposal is not accepted

If your consumer proposal is not accepted, you can

- make changes to the proposal and resubmit it;
- consider other options for solving your financial problems; or
- declare bankruptcy.

### How will a consumer proposal affect my credit rating?

Generally, a person who declares bankruptcy or submits a consumer proposal is assigned the lowest possible credit score.

Information that affects your credit score is usually removed from your records after a certain period of time, depending on the type of information and where you live. Similarly, depending on which province you live in, the proposal will be on your credit report for the duration of the proposal’s term, plus a few years after.

Your ability to obtain and use credit after a consumer proposal depends on convincing lenders of your

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http://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/br02051.html
(Excerpt from the Office of the Superintendent of Bankruptcy Website)