

My father cosigned my car loan. What will happen if I file bankruptcy?

I needed my father to cosign my car loan for me. Now I need to file bankruptcy. **Will my father need to pay off that loan?**

In general, your father will still be liable on that loan if it's not paid in full. After all, that's why he had to cosign for you.

Let's discuss a **Chapter 7 bankruptcy**, the type that gets rid of your debts quickly.

- **If you continue to make the payments** (and possibly reaffirm that debt - ask your bankruptcy attorney about this), there would be no reason for the lender to go after your father.
- **If you don't continue to make the payments**, then the lender could sue your father for the amount owed on that loan.
- **If the cosigned debt were a credit card account**, they could (and probably would) come after your father to pay it off.

A **Chapter 13 bankruptcy**, the "payment plan" type, gives you more options.

- **The co-debtor "stay"** - Filing bankruptcy (any type) stops ("stays") all actions by creditors against the person who filed bankruptcy. However, filing a Chapter 13 bankruptcy also provides a stay preventing actions by creditors against cosigners! **So your father is protected while you are in your Chapter 13 bankruptcy, unless the next point below is true.** (Note that this cosigner stay does not apply to business debts, taxes, or other non-consumer debts.)
- **If the Chapter 13 payment plan does not provide for paying that car loan**, then the lender could get the court to remove the stay against them regarding your father.
- **If you're paying off missed back payments and current payments** in your Chapter 13 payment plan, everything should be fine for your father.
- **If the cosigned debt were a credit card account**, you can provide in the payment plan for it to be paid in full even though other similar accounts are not being paid in full. That way your father will be protected both during your Chapter 13 bankruptcy and afterward.

Malcolm Ruthven
Attorney at Law
San Francisco Bay Area
415.342.4666 Fax 415.869.6645
mruthven@mruthvenlaw.com
ca-bklaw.com



Click [bankruptcy](#) for more information from [Malcolm Ruthven](#)