

KDLA February 2012 Trustee Tip of the Month

What if a patron or employee of the library files for bankruptcy?

Since the economy has faltered, libraries are more and more impacted by the bankruptcy of patrons and employees. Here are a few concepts to use as a guide.

If a patron files bankruptcy:

Public libraries are governmental units. Under the provisions of the United State Code governmental units are prohibited from denying credit or "license, permit, charter, franchise, or other similar grant" because of bankruptcy.

When a Chapter 7 discharge is granted, the court enters an order prohibiting the debtor's creditors from later attempting to collect any discharged debt from the debtor. Any creditor who violates this court order may be held in contempt of court and may be liable to the debtor in damages.

It is also illegal for local, state, or federal governmental units to discriminate against a person as to the granting of licenses, permits, student loans, and similar grants because that person has filed under Chapter 7.

General rules, if the library is listed as a creditor on a bankruptcy:

1. The library may not make any attempt to collect the debt.
2. The library cannot discriminate against that patron in any way.
3. The library must forgive any debts or lost materials. In the case of a Chapter 13, which allows a debtor to keep property and pay debts over time, the library can file with the bankruptcy court to attempt to get some of the lost money refunded. Consult with an attorney if this is the case.

The library would only need to clear the record for items up to the date of the bankruptcy, and then only if the library were listed on the bankruptcy. If the library is listed in the bankruptcy they will be notified (by letter) by the bankruptcy court. If they are not listed they may continue to attempt to collect the debt and may follow their normal policies about allowing/disallowing checkouts.

If an employee files bankruptcy:

1. The library may not deny employment to this person.
2. The library may not terminate the employment of this person.
3. The library may not discriminate with respect to employment against this person.
4. The library must initiate any withholding of wages the bankruptcy court may order against this person, without prejudice.

For more information on bankruptcy see: <http://www.uscourts.gov/FederalCourts/Bankruptcy.aspx>

This is not legal advice. If you need legal advice you should consult with an attorney.