Consumer proposal versus bankruptcy

By **Paul Franchi**, Licensed Insolvency Trustee, Ontario.

The one-page comparison. The full guide, worked line by line, lives at insolvencyreport.ca/consumer-proposals/vs-bankruptcy/. The credit guide, bureau by bureau: insolvencyreport.ca/consumer-proposals/credit/

	Consumer proposal	Bankruptcy
What it is	A legal offer to your unsecured creditors to repay part of what you owe, over time, filed through a Licensed Insolvency Trustee acting as administrator.	A legal process that hands the property the law does not protect to a Licensed Insolvency Trustee to be sold for your creditors, in exchange for a release from most debts.
What happens to your property	Nothing transfers. You keep your assets and keep paying any secured loans (mortgage, car) as normal.	Your property passes to the trustee to be sold for creditors, but the law lets you keep basic things (household goods, work tools, a vehicle up to a limit, most retirement savings); only the unprotected part is sold.
Who has to agree	Your creditors, by a majority in dollar value of those who vote, or by silence. The court then approves.	No creditor vote. The process begins on filing.
How long it lasts	Payments run up to five years. Many are shorter.	A first bankruptcy is often discharged in nine to twenty-one months, depending on income.
What it costs you	Fixed monthly payments you can afford, set by comparison to the bankruptcy alternative. No interest. Fees are regulated and paid from your payments, not billed on top.	Payments driven by your income (surplus income), plus the value of any assets the law does not let you keep. Fees are regulated and paid out of the money collected for creditors.
What happens if your income rises during the process	Nothing to your payment. A proposal payment is fixed at the amount you agreed; a raise does not increase it.	A raise can create a surplus-income obligation where there was none, which extends a first bankruptcy from nine months to twenty-one; if you are already paying surplus income, a further raise increases the payment.
What happens to a tax refund	You keep it, with one qualifier: the Canada Revenue Agency may hold a refund for a pre-filing tax year against pre-filing tax debt. Otherwise nothing vests in a proposal, so refunds stay yours.	The refund for the whole year you go bankrupt, the part after your filing date included, goes to the estate for your creditors (BIA section 67(1)(c)), as do refunds for earlier years (or they go to the Canada Revenue Agency by set-off). Refunds for years after the year you filed stay yours in the ordinary case.
What shows on your credit	Proposal: Accounts in the proposal are commonly reported with an R7 rating. A Consumer Proposal comes off your credit file no later than three years after you complete it, and sooner where the bureau's six-year outside clock ends first, measured from the filing date at Equifax and from the account's default date at TransUnion. See the credit guide for the bureau-by-bureau rules.	Affected accounts are commonly reported with an R9 rating. Equifax removes a first bankruptcy six years after your discharge; TransUnion does the same in most provinces but keeps it seven years in Ontario, Quebec, Prince Edward Island and Newfoundland and Labrador. A second bankruptcy remains fourteen years. These are bureau policies, not legal time limits.
What your creditors receive	Usually more than a bankruptcy would return, which is the main reason creditors accept. The offer is measured against that benchmark, not against a fixed bar.	Whatever the sale of the assets you cannot keep, plus your required income payments, produces after the regulated fees are taken out. Sometimes that is very little.

Written and built by a Licensed Insolvency Trustee with a legal and finance background.

No fees for advice. No referrals for sale. The light is on.

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