

Emergency Bankruptcy Filings – Why, When & How

By John Skiba, Arizona Bankruptcy Lawyer

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No one wants to file for bankruptcy. But sometimes, the situation requires it. And sometimes the situation requires that it happen *right now!* A bankruptcy case typically takes anywhere from one week to a month to prepare. The bankruptcy court requires a lot of information from you, including information on income, assets, debts, monthly expenses, and financial transactions that have occurred over the last couple of years. All of this generally takes time to pull together.

However, often clients will come in and they don't have a lot of time to spare. There may be a foreclosure sale set on their home coming up, or there may be wage garnishment that is going into effect on the next paycheck, or maybe they are having their bank accounts frozen and need access to those funds. In situations where a bankruptcy filing is needed immediately it can happen through what bankruptcy attorneys call an emergency filing.

Why

Why you would need to file an immediate bankruptcy goes back to the one of the most powerful tools in bankruptcy – the automatic stay. The automatic stay is an order issued by the bankruptcy court immediately upon the filing of your bankruptcy case. This order stops all collection efforts against you, including foreclosure sales, garnishments, and lawsuits. The reason why one would want or need to file an emergency bankruptcy is due to a pending or foreclosure sale that you need to stop. The filing of the bankruptcy case will stop such things immediately.

When

An emergency bankruptcy filing can be done at any time prior to the event that you are trying to stop. For instance, if your home is to be foreclosed on at noon on Wednesday, your bankruptcy case would need to be filed at some point before then. While not ideal, I have filed bankruptcy cases within hours of a pending foreclosure sale to stop the sale of the home from going forward.

It is important to know that if you have had your wages garnished or money taken out of your bank account that the bankruptcy filing will stop future garnishments but that you will not be getting the money that has already been garnished back. One exception to this rule is when it comes to repossessions. If your car has recently been repossessed, you can file a chapter 13 bankruptcy and get the car returned to you.

How

There is surprisingly little information that is needed for an emergency bankruptcy filing. The bankruptcy petition must be completed. The petition is a three page document that contains your

name, address, social security number, and some general information for the bankruptcy court. You will be required to complete a pre-bankruptcy credit counseling course. Through my office this can be done online or over the telephone and takes a little more than an hour.

Once these items are put together the bankruptcy petition can be filed through the court's electronic filing system – meaning it will have an immediate effect of stopping whatever it is you are needing to stop.

Emergency bankruptcy filings are not the norm nor the preferred way to get into a bankruptcy case; but if you are trying to save your home or stop a garnishment I can help you in getting the case filed quickly to limit the harm that is headed your way.

I offer a free bankruptcy consultation where we can discuss your specific situation and determine if bankruptcy is a good option for your financial difficulties.

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