Bankruptcy, Foreclosure & Saving Your Home Through Chapter 13 Bankruptcy

By Arizona Bankruptcy Attorney John Skiba

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Many of my bankruptcy clients are also dealing with a foreclosure. Here in Arizona foreclosure rates have been at record levels for some time and the home values continue to drop. If you are like most, the value of your home is considerably less than what you owe. This leads to a decision of whether to stay in your home or cut your losses and walk away. If you are in this situation Chapter 13 bankruptcy can offer options that can allow you to stay in your home and make it more affordable.

Avoid Foreclosure

The first thing that a Chapter 13 bankruptcy can do is stop the foreclosure of your home. If your house is in the advanced stages of foreclosure you likely have a trustee's sale date when they are going to auction off your home. The filing of a Chapter 13 bankruptcy will immediately stop the scheduled sale of your home and allow you time to put together a plan to save your home. This is accomplished through an order issued by the bankruptcy court called the automatic stay. The automatic stay is issued immediately upon the filing of your bankruptcy case and stops all collection efforts against you and your property. This means no foreclosure sale.

Get Caught Up on Missed House Payments

The Chapter 13 bankruptcy process typically lasts anywhere from three to five years. During this time you are given an opportunity to get caught upon missed house payments. It is important to understand that you will be required to make the regular monthly payment as it comes due, but you will be give up to five years to get caught up on the missed payments. Also, during this time period, as long as you are making your monthly mortgage payment, the bankruptcy court will protect your home from foreclosure.

Eliminate Your Second Mortgage or Home Equity Line of Credit

In a Chapter 13 bankruptcy you can eliminate your second mortgage or home equity line of credit (HELOC). This is big help in Arizona where homes are so far upside down. Imagine if you only had your first mortgage payment to pay how much easier it would be to make ends meet.

In order to be able to remove a second mortgage or HELOC, your situation must meet certain requirements. Specifically, the value of your home must have depreciated to the point where it is worth less than what you owe on your first mortgage. For example, if you owe $200,000 on your first mortgage, then your home would have to be worth less than $200,000 in order for you to be able to remove the second or HELOC. If the value of your home is worth more than what you owe on your first mortgage, you will ***not*** be able to remove the second mortgage or HELOC.

A Chapter 13 bankruptcy is not a quick process and it requires discipline on your part to make it happen, but it has many powerful tools that other bankruptcies, like a Chapter 7 bankruptcy, simply don't have. It specifically has many tools to help you stay in your home and make it more financially appealing to stay in a home that is currently upside down.

I offer a free bankruptcy consultation where we can discuss your specific situation and help you determine if your home can be saved through the Chapter 13 bankruptcy process.

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