



How to Use Chapter 13 to Prevent Foreclosure on Your Home

Written by San Francisco bankruptcy attorney, [Jeena Cho](#)

Have you fallen behind on your mortgage payments? Are you worried about foreclosure? While it sounds like a paradox, it's true: Chapter 13 bankruptcy can help you save your home and prevent foreclosure.

For starters, the minute that you file for bankruptcy (either Chapter 7 or Chapter 13), you are put under the protection of an automatic stay. Once you file, your creditors must cease all collection activities, and your home is temporarily safe from foreclosure.

If you do qualify for a Chapter 13, then you will have up to five years to pay back the mortgage payments or property tax payments you've missed. This buys you some serious time! Let's pretend that your mortgage payment is \$2,000 each month. If you have missed six payments, then you are behind \$12,000. With a Chapter 13, you would be given up to 60 months to pay back that \$12,000.

If you have two mortgages on your home, Chapter 13 can help in another way. If the fair market value of your home is less than the amount of your first mortgage, a Chapter 13 bankruptcy cancels the second mortgage. This is called a "lien strip." Let's pretend your home is valued at \$500,000, and you have a first mortgage of \$600,000 and a second mortgage of \$200,000. Your first mortgage is greater than the fair market value of your home, so at the end of your bankruptcy, the second mortgage goes away.

Most people file for bankruptcy because they have more debt than they can pay back. Once you've completed a Chapter 13, your former debt will be forgiven, and it will be much easier for you to make your monthly mortgage payment and to keep your home. (Some debts are not dischargeable through bankruptcy, including student loans, recent taxes, alimony and child support.)

Foreclosure is devastating. You don't want it to happen to you, and you don't have to let it happen. You do have options, but you need to act now. The worst thing you can do is to do nothing.

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