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Bankruptcy the only Remedy against Deficiency Judgments

There is a little-known danger most homeowners are not aware of. It's the danger of deficiency judgments. A deficiency judgment is a decision by a judge to award a creditor the right to claim the shortfall between what was owed and the amount that was appraised on a property. For instance, if your mortgage is outstanding by \$300,000 but the appraised value of your house at the time of foreclosure is only \$180,000 your lender can apply to the court for permission to claim the shortfall (called a 'deficiency') of \$120,000 plus interests from you. This is what is known as a deficiency judgment.

What a deficiency judgment means is that your worries are not over the moment you hand over the keys to your foreclosed house to your bank. In addition, a deficiency judgment can be brought against you not only by your primary mortgage holder but by the secondary mortgage holder, the mortgage insurer or even government entities like Fanny Mae and Freddie

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Mac. Also, bear in mind that in Florida the lenders do not have to file for deficiency judgment straight after a foreclosure. The court grants them up to five years to do so and once the deficiency judgment is granted, the lender has up to twenty years to collect the debt. Even if you move to another state, you are still liable. Imagine, even if you are short of cash now, your lender can still claim from you years from now after you have become more financially stable.

But how does a lender claim money from you through a deficiency judgment? This can be done in several ways. A deficiency judgment gives the right to the lender to access your bank account information, tax returns, salary statements and other financial information. This means the lender can garnish your wages and/or take money from your bank accounts to recoup the debt you owe them. Furthermore, they can also seek sanctions like bench warrants and contempt of court orders against you as well as seize your assets like vehicles, valuables, jewelry, rental properties etc. The only types of assets they cannot touch are your primary residence, 401(k)s, IRAs and income below a certain amount. Anything other than these is fair game.

If you fail to pay up your dues in the deficiency judgment, you could end up in jail.

If your address with your lender is not updated, you should update it immediately. This is because if the deficiency judgment is held by the same party that forecloses your property, you will be notified by mail. If

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you have not updated your address with the court, you might miss the deficiency judgment notice and thereby lose the chance to challenge it.

With the plummeting prices of real estate, it is clear that the number of deficiency judgments can only rise. Last year, courts in Florida granted more than 210 deficiency judgments in several counties like Fort Myers and Cape Coral. This was five times more than in 2008. This year in February alone, 33 deficiency judgments were granted, more than double in the same month last year.

Is there a solution?

Yes, there is. It's called bankruptcy.

Filing for bankruptcy protection is the only means for you to avoid paying deficiency. A deficiency judgment is so threatening because of its long shelf life and unrestricted geographical reach. But if you are under bankruptcy protection, the bankruptcy court either gives you the chance to pay off your debts in installments or forgives certain debts entirely.

If you wish to file for bankruptcy protection whether it is to avoid a deficiency judgment or for other reasons, give us a call at (813) 200 4133 for a free consultation.