

How Long Can I Stay in My Home in Bankruptcy?

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Many people I meet with now days are either trying to save their home or find a way to give their home back to the bank with as little liability as possible. Many are looking for an “[Arizona foreclosure attorney](#)” to help them. For those looking to surrender your home back to the bank, the question is often asked “how long will I be able to stay in my home?”

How long you can remain in your home depends on what chapter of bankruptcy you file and whether or not there was a trustee sale date set on your home prior to filing bankruptcy.

Home Foreclosure with Chapter 7 Bankruptcy

If a trustee sale has never been set on your home, and you file a Chapter 7 bankruptcy, you will likely be able stay in your home an additional four to six months from the time you file for bankruptcy with the court. The filing of the bankruptcy bars your mortgage lender from foreclosing on your home unless they obtain permission from the court. Once permission is obtained, the bank must give you 90 days notice prior to auctioning your home. It is important to note that this is the case in Arizona, and if you have a home in a different state you should consult an attorney in that state.

If your home had a trustee’s sale date prior to your bankruptcy case, as soon as the court gives your bank permission, it can foreclose. In this situation your bankruptcy filing will likely allow you to stay in your home an additional one to four months because the bank had already given you the required 90 days notice prior to the auctioning.

In either scenario, if you surrender your home through the bankruptcy you will not have any future liability on those loans.

Home Foreclosure with Chapter 13 Bankruptcy

Many, if not most, of those who file for Chapter 13 bankruptcy protection do so to try and save their home from foreclosure. A Chapter 13 bankruptcy has tools that will give you time to get caught up on missed house payments and in some cases even remove second mortgages all together. You will be required to continue (or begin again) to make your monthly house payment as it becomes due. If you do not make your house payment while in a Chapter 13 bankruptcy your bank will ask the bankruptcy court for permission to foreclose on your home.