

Bankruptcy & Foreclosure – Foreclosure Mess Not Over Yet

By Arizona Bankruptcy Attorney John Skiba

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I came across an article MSNBC's website about the foreclosure mess that we are all currently living through that estimated there have been 5 million homes foreclosed on this the Great Recession started. Considering that the United States has a population of 311 million people, 5 million foreclosures are staggering. Further, they estimate that there will be an additional 3 million foreclosures over the next few years.

It is the rare consultation I have where someone is not having difficulty with their house payment. Many people are severely delinquent on their house payments and those that can afford the monthly payment are contemplating walking away because they owe significantly more than their home is worth. These scenarios lead many people to consider bankruptcy.

Bankruptcy Will Stop Foreclosure of Your Home

Initially, what most people are worried about is losing their home to a foreclosure sale. The filing of a bankruptcy will stop the foreclosure sale from going forward. Immediately upon the filing of your bankruptcy case the bankruptcy court will issue an order that stops all collection efforts against you and your property. This will stop the foreclosure sale.

Bankruptcy Can Give You Time To Get Current On Your Payments

Next, if you are behind on your house payments a chapter 13 bankruptcy will allow you time to get caught up on your house payments. In a chapter 13 bankruptcy you will be given three to five years to get caught upon missed payments. During this time, so long as you are making your monthly house payment as it comes due, the bankruptcy court will not let your bank foreclose on your home. A chapter 13 bankruptcy can give you the breathing room you need to step back, regroup, and get a plan together to move forward without the pressure of foreclosure.

Chapter 13 Bankruptcy Can Remove Your Second Mortgage

Chapter 13 bankruptcy has a powerful tool that allows you to eliminate second mortgages and home equity lines of credit (HELOC). This is done through a process called "lien-stripping". In order to strip off the second mortgage or HELOC, the value of your home must be less than what you owe on your first mortgage. For example, if you owe \$150,000 on your first mortgage then the value of your home must be less than \$150,000 in order for us to be able to remove the second mortgage or HELOC through the bankruptcy case.

You Can Surrender Your House Through Bankruptcy and Have No Future Liability

If you have made a determination that you can no longer afford your home or if you have simply made the decision that it no longer makes financial sense to stay in your home you can surrender it through a bankruptcy case and you will not have any future liability on the home and further you will not incur any tax liability on that home.

As the numbers cited in the MSNBC article reflect, millions of us are dealing with foreclosure issues and millions more will be dealing with them in the future. I offer a free bankruptcy consultation where we can discuss your specific situation and help you put a plan together to be able to move forward.

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http://www.msnbc.msn.com/id/42881365/ns/business-personal_finance/t/no-end-sight-foreclosure-quagmire/