

Bankruptcy & Foreclosure: Dealing with Your Home Through Bankruptcy

By John Skiba, Arizona Bankruptcy Attorney

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In Sunday's newspaper they reported that nationwide there is expected to be an increase in the number of [foreclosures](#). This not only impacts those families who are losing their homes but results in a continued [downward trend in home values here in Arizona](#). If your home has been put up for foreclosure, or if you are debating whether you should stay in your home or not, it is important to understand how [bankruptcy](#) can help and open the options you have in dealing with your home. Below are three common scenarios I see with people and their homes and how bankruptcy can help in each situation:

Scenario #1 - Behind on House Payments

The most common situation I see homeowners in is being behind on their house payments. Some are a payment or two, some haven't made a house payment in more than a year. Usually after you have missed 3-5 payments the bank will send you a Notice of Trustee's Sale informing you of the date on which your home will be sold at auction. If you want to keep your home you should consider a [Chapter 13 bankruptcy](#).

A [Chapter 13 bankruptcy](#) will stop the foreclosure sale that is set on your home and allow you to put together a plan whereby you can pay the missed payments. Further, you will be given three to five years to catch up on the missed payments. A Chapter 13 plan can make an impossible situation like getting all of your missed payments caught up at once into a more manageable situation where you pay a portion of the missed payment back over time. If you want to stay in your home Chapter 13 bankruptcy is a good option.

Scenario #2 - Upside Down in Home

Another common situation is where the value of the home is worth considerably less than what is owed. You love your home, but when you owe \$350,000 on a home that is only worth \$120,000, you have to question whether it is a good financial move to stay in the house. For many the reason the house is so far upside down is because they have a large second mortgage or home equity line of credit (HELOC). A [Chapter 13 bankruptcy](#) can help in this situation as well.

If the value of your home is worth less than what you owe on your first mortgage, we can eliminate your second mortgage or HELOC. For example, if you owe \$200,000 on your first mortgage, and \$50,000 on a

HELOC, and the value of your home is \$175,00, then we can eliminate the HELOC. However, if your home were worth more than \$200,000 than we could not do this. For those who want to stay in their home but are very upside down in their mortgages a Chapter 13 bankruptcy is the way to go.

Scenerio #3 - Just Walking Away

For many it just doesn't make sense any more to stay in their home. Either the payments are too high, the bank has denied a loan modification, or you simply need to move. The problem you run into is in many situations if you walk away from your home the bank may be able to pursue you for the unpaid balance. If you are short sell your home you may end up with huge tax liability. However, if you [surrender your home back to the bank](#) through a [Chapter 7 bankruptcy](#), you will have no future liability on the home and you will not incur any tax liability. An added bonus is if you have [credit card debt](#) or [medical bills](#) they can also be eliminated through the [Chapter 7 bankruptcy process](#). If you have decided it is time to make a move, Chapter 7 bankruptcy is a good option.

All of my bankruptcy consultations are free. I would be happy to sit down with you and discuss your situation to see how I can help. Give me a call at (480) 420-4028 or contact me via email at john@skibalaw.com .