CALIFORNIA BANKRUPTCY LAW

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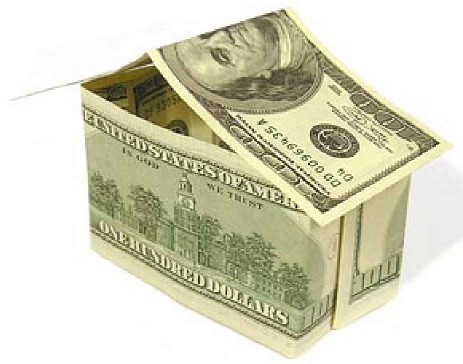
Can I lower my house payments by filing bankruptcy?

I've heard that question - Can I lower my house payments by filing bankruptcy? - many times. The answer is "it depends". Let's see what it depends on and how you might go about it.



First, the 2005 bankruptcy code prohibits modifying the terms of a mortgage loan on your residence. So why isn't that the end of the story? Because under certain circumstances you can do something that is very similar. What are the steps involved to find out if that "something" might work for you?

1. **Do you have more than one mortgage on your house?** [Note that a security interest or lien on your house may be from a loan taken for another purpose for which you were required to put up your house as security.]

2. **Is the current value of your house** (including, say, 10% for the cost of a sale) **less than the total amount owed on the first mortgage**, or less than the first and second mortgages if there are three, etc? [If not, you don't need to read further because this won't work for you. After a sale of your house, there would be some money available for all the mortgages and therefore nothing to do about that.]

3. **Those junior mortgages that would receive nothing** after a sale of your house have a security interest (called a lien) in your house that has no value at this time. **These security interests (liens) can be "stripped", eliminated, in a Chapter 13 bankruptcy.** [This applies in California but not all states. Ask your local bankruptcy attorney if you don't live in California.]

   Example 1 - Your house would bring $200,000 after a sale. You have $250,000 owed on a first mortgage and $50,000 owed on a second mortgage. Since the amount owed on your first mortgage is greater than your house value, you can strip the lien (security interest) from your second mortgage.

   Example 2 - You also have a third mortgage with $30,000 owed in Example 1 above. You could get rid of that third mortgage lien as well.

   Example 3 - Your house would bring $275,000 after a sale in Example 2 above. You have equity above and beyond your first mortgage, something left over for the second mortgage, so you cannot strip the lien from your second mortgage. But there would be nothing left for the third mortgage. Therefore you can strip the lien from the third mortgage.

4. **You do not have to make mortgage payments on those stripped-lien mortgages to keep your home**.

5. **What happens to the loan amounts owed on those mortgages?** They are turned into "unsecured" debts, like credit card debts. The get paid a percentage of the amount owed, possibly a small percentage, in your Chapter 13 payment plan just like credit card debts and then they are gone.

6. **What if the mortgage lender doesn't agree to that?** The mortgage lender does not have to agree. The bankruptcy court removes the security interest (lien) and that's that. [The mortgage lender can, however, claim that your valuation of your house is too low and therefore there would be some money left for that mortgage loan after a sale of the house. Check with your bankruptcy attorney about this.]

7. **What other benefit might I get from this?** If things turn bad later (after completion of your Chapter 13 bankruptcy) and you lose your home to foreclosure, you may still owe unpaid balances on some of the mortgage loans. That varies from state to state. But regardless, **your liability for those loans is gone, discharged by your bankruptcy, so you don't owe them any more**.

8. **What else is involved in this process and in a Chapter 13 bankruptcy?** A lot, and way too much to cover in this article.

If you think this method might work for you, "don't try this at home". It is not simple. Discuss your situation with a qualified bankruptcy attorney in your area. You may be able to lower your house payments a lot.

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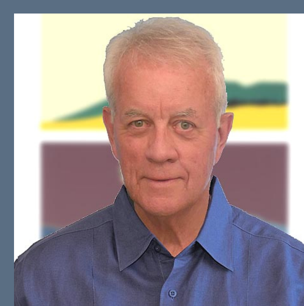

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