



Ten Things Homeowners Need to Know About Bankruptcy

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1. Filing bankruptcy does not mean you lose your home. There are different chapters of bankruptcy that individuals can utilize: Chapter 7 (Liquidation), Chapter 11 (Reorganization) and Chapter 13 (Repayment). Under every chapter, an individual is entitled to a homestead exemption that allows the homeowner to preserve a home with up to \$175,000 of equity as long as payments remain current. In a Chapter 11 or 13 case, the Bankruptcy Court can force the bank to allow a borrower to catch up on payments, usually within five years.

2. You may modify a mortgage if you file bankruptcy. Banks used to put modification on hold as soon as a bankruptcy case was filed. That is no longer the case. Most banks now continue to process and consider modification requests even during a bankruptcy.

3. Filing bankruptcy can delay a foreclosure. In a bankruptcy the automatic stay prevents the bank from finishing a foreclosure without Bankruptcy Court permission. This may only result in a short delay, but it can often be long enough to work out a plan to save your home or to save money necessary to move. This is important because after a bankruptcy or foreclosure, many landlords require a larger deposit.

4. You still have to pay homeowners' dues after you file bankruptcy. A discharge in a Chapter 7 bankruptcy eliminates the obligation to pay prebankruptcy Homeowners Association dues if you are not keeping the house. However, if the owner keeps the house, HOA dues must be paid. Even if the homeowner is not keeping the house, HOA dues must be paid from the date of bankruptcy until the bank finishes its foreclosure.

5. In bankruptcy you may be able to completely wipe out your second mortgage. In a Chapter 11 or 13 bankruptcy, homeowners can obtain a "lien strip" to remove second and third mortgages if the value of the home is less than the amount owed on the first mortgage. The rules and procedures for this process are technical and require assistance of well qualified counsel.

6. Filing bankruptcy can protect your home from foreclosure. Some homeowners can use a bankruptcy proceeding to improve their financial situation and restructure their mortgages to save the home before a foreclosure happens.

7. Filing bankruptcy may allow you to walk away from a property. Outside of bankruptcy, it is possible for the lenders to pursue a deficiency judgment in some situations, which will allow the bank to collect the difference between what the bank receives at a judicial foreclosure sale

and what the bank was owed. In almost all cases, a bankruptcy case will allow a borrower to walk away from a property completely.

8. Even if you lose your home after a bankruptcy or foreclosure, you may be able to buy again. A bankruptcy of any kind will appear on credit reports for at least seven years. This will generally make it more difficult to get a new real estate loan. However, many people can rebuild credit in three to five years to the point where they may qualify for a home loan. In fact, under current rules, a person who has filed bankruptcy could be eligible for a first time home buyer loan five years after a bankruptcy and foreclosure.

9. Filing bankruptcy avoids tax liability from a short sale. If a homeowner sells in a "short" sale (where the bank takes less than its loan balance), it is standard practice for the lender to issue a 1099 to the IRS for the difference that the bank "forgave." The homeowner then has to pay taxes on this amount as if they received income that year. One way this tax can be avoided is a bankruptcy.

10. If you lose your home to foreclosure, the bank may end up paying you to move. The foreclosure process typically takes at least five months to complete. At the end of the process the buyer at the foreclosure sale must evict or remove the occupant. This process takes four to six weeks and can cost the bank thousands in attorney's fees. To avoid this, when banks end up owning a property after a foreclosure sale, they frequently offer the occupant \$1000 or more to move out by a certain date and leave the property in good condition.

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