

This is the twenty-fourth in my series of newsletters. Due to your great interest, I plan to continue this quarterly report for my clients.

THE 7 MOST ASKED QUESTIONS REGARDING BANKRUPTCY

1. Q: WILL I GET BACK MY DRIVER'S LICENSE IF I FILE BANKRUPTCY?

A: Yes. If your driver's license is suspended only for motor vehicle surcharges you can get your license back if you file Chapter 13 reorganization. My office would prepare the paper work and you would take the petition to the Division of Motor Vehicles and pay your restoration fee. If there is no other reason for the suspension, your license will be restored.

2. Q: MY HOME IS IN FORECLOSURE AND SCHEDULED FOR SHERIFF SALE. CAN I SAVE MY HOME?

A: Yes. Under the current state of the law, under Chapter 13, I can set up a payment plan for you to catch up on the mortgage arrears over the next 5 years. You will not lose your home as long as you resume your regular mortgage payments and pay a trustee each month. The trustee pays the back mortgage payments to the Mortgage Company.

If you are in foreclosure you want to file as soon as possible to avoid additional legal fees. However, if you file after the date of the Sheriff Sale, it may be too late to save your home. My advice is to always file before your home goes to Sheriff Sale.

3. Q: WILL I LOSE MY HOME IF I FILE BANKRUPTCY?

A: No. However, you must file the correct type of bankruptcy. For example if you are behind on your mortgage payments or in foreclosure, you must do a Chapter 13 reorganization so I can work out a repayment plan so you won't lose your home.

You can file a Chapter 7 liquidation and keep your home only if it has minimal equity (under \$16,150), and you are current on your mortgage payments.

4. Q: WILL I LOSE MY CAR IF I FILE BANKRUPTCY?

A: No. Again you have to file the right Chapter. If you are current on your car payments, the vehicle is insured and you have minimal equity in the vehicle, you can file Chapter 7. I would have to look at all your assets to see if you can keep all your property.

However, if you are behind on your car payments, you must file a Chapter 13 reorganization. You have 3 choices under the current state of the law:

- a) You can pay the money you are behind to a bankruptcy trustee and resume your normal car payments when they next become due;
- b) You can pay the fair market value of the vehicle plus interest to a Bankruptcy trustee over 5 years so you don't have to pay the finance company directly; or
- c) You can pay the balance owed on the vehicle plus interest to a Bankruptcy trustee over 5 years to avoid dealing with the finance company directly.

5. Q: CAN BANKRUPTCY HELP ME IF I AM BEING EVICTED FROM MY RESIDENCE?

A: Yes. Under Chapter 13 you are allowed to assume a residential lease and pay back the money you are behind to a bankruptcy trustee as long as you resume your rent when it next becomes due. My office would immediately fax the bankruptcy petition to the attorney for the Landlord and the court clerk, to stop any lock out.

You can file Chapter 13 until the locks are changed but my best advice is to file before the court date. I have seen too many clients burned by making foolish deals with their Landlord and paying large sums of money without properly protecting their Interest.

6. Q: I OWE SEVERAL THOUSAND DOLLARS TO THE INTERNAL REVENUE SERVICE. CAN YOU HELP ME?

A: Yes. Bankruptcy also creates a stay, which stops the Internal Revenue service from seizing your property. Since tax claims are included, it is usually easier to resolve IRS disputes in Chapter 13.

7. Q: WILL BANKRUPTCY STOP A WAGE GARNISHMENT?

A: Yes. Even if the garnishment previously started, either a Chapter 7 or Chapter 13 Bankruptcy would stop the garnishment immediately.

LET ME ANSWER ALL YOUR QUESTIONS

As my law practice continues to grow, I hope to help you in all areas of the law where I have helped my other clients. Remember that even if I am not familiar with a specific area of the law, I work with other lawyers who are well qualified to handle these matters. Therefore, if you have any question on any legal matter whatsoever, please ask me about it.

IF YOU LIKE MY WORK, SPREAD THE WORD.

I appreciate the confidence my clients show by referring new business to me. Such referrals are my largest and best source of new clients. Please let me know if you have a friend or relative who needs legal assistance or who would like to receive one of my quarterly newsletters.

I sincerely appreciate all the referrals from so many of you over the past several years. Thank you for your continued confidence and good will.

If you would like me to speak at your organization or place of worship, feel free to contact me.