

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

There is so much confusion and misinformation concerning bankruptcy. Over the last sixteen years I have helped over 5,000 people keep their property and get a fresh start by filing bankruptcy.

Several clients were so stressed out before they got my assistance that they were physically sick and lost sleep. It is true that bankruptcy has credit ramifications, however, there is a light at the end of the tunnel. Several clients get mortgages within two years of discharge and car loans immediately after discharge.

Even though there is draconian legislation pending in the 107th Congress, the present law still helps in several ways. If you have problems do not delay since the pending legislation won't prohibit bankruptcy filings, but will make it a lot harder.

The following are the 7 most recently asked questions regarding bankruptcy.

Q. CAN I SAVE MY HOME IF IT IS SCHEDULED FOR SHERIFF SALE?

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 five (5) years, or payoff the entire mortgage balance in full.

You will not lose your home if you comply with the Chapter 13 Plan. If you are curing arrears you must resume the mortgage the next due date after the filing of the petition.

If you are in foreclosure you want to file as soon as possible to avoid additional legal fees. However, if you file your Chapter 13 petition after the Sheriff Sale occurs, it may be too late to save your home.

My advice is to always file before your home goes to Sheriff's Sale.

Q. WILL I LOSE MY HOME IF I FILE FOR BANKRUPTCY?

NO. However, you must file the correct bankruptcy Chapter. For example if you are behind on your mortgage payments and think you can work it out with the mortgage company, the bank will get Stay relief and proceed with the foreclosure if you file Chapter 7 rather than Chapter 13. Chapter 13 allows me to work out a payment plan so you won't lose your home.

The only time you won't lose your home if you file Chapter 7 is if you are up to date on your mortgage payments and you have less than \$17,425 equity in your home. Married couples can have equity of \$34,850.

Q. WILL I GET MY DRIVER'S LICENSE BACK BY FILING BANKRUPTCY?

YES. However, you must file the correct Chapter or you won't get your driver's license restored. You must file a Chapter 13 petition since motor vehicle surcharges and fines cannot be discharged in Chapter 7. Once we file the petition we will mail you the petition and you must go to the Division of Motor Vehicles and pay your \$50 restoration fee. Please note your Plan must provide for payment of fines in full, if they are the reason for the suspension.

I want to emphasize that if you still have time on your suspension period or any other non-economic reason for suspension, filing bankruptcy won't get you back your license.

Q. IS MY MOTOR VEHICLE PROTECTED BY A BANKRUPTCY FILING?

YES. Like the situation with your home, you should only file a Chapter 7 if you are current on your motor vehicle payments. Also, if you have too much equity in your vehicle, the trustee can sell the vehicle if you file a Chapter 7.

If you are not current or you have too much equity in your vehicle, you must file a Chapter 13 to keep the vehicle.

Chapter 13 presently gives you 3 choices:

- 1) pay the arrears on the vehicle and resume auto payments the next payment after the petition is filed.
- 2) payoff the balance of the motor vehicle in full through the Chapter 13 Plan plus contract rate of interest. Since the motor vehicle is being paid to the trustee you don't have to resume car payments.
- 3) pay the fair market value of the vehicle plus contract rate of interest over the life of the Chapter 13 Plan. As with the payoff choice, you don't have to resume car payments since the trustee is paying the bank.

Q. WILL FILING BANKRUPTCY PROTECT ME FROM GETTING EVICTED FROM MY RENTAL DWELLING?

YES. However, you must file Chapter 13 to reorganize the rental arrears. The bankruptcy code allows you 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 then immediately fax the petition to the landlord's attorney and Court clerk to prevent lock out.

You can file Chapter 13 until the locks are changed but my advice is to file before the Court date. Too many clients make ridiculous deals with their landlords and still get Warrants of Removal on their door.

Q. WHAT CAN I DO SINCE MY ELECTRIC WAS SHUT OFF?

Under section 366 of the bankruptcy code, the electric company is required to turn back on your utility if you file a bankruptcy petition. However, if you don't give an adequate deposit within twenty (20) days of filing, your electric will be shut off again.

Q. MY BANK ACCOUNT HAS JUST BEEN LEVIED BY THE IRS. HOW CAN I STOP THEM FROM TAKING EVERYTHING?

If you file a bankruptcy proceeding, the Internal Revenue Service is stayed from any other further action against your property. Besides the IRS the bankruptcy Stay stops any creditor from garnishing your wages, levying on your property or taking any other action against you.

LET ME ANSWER ALL YOUR QUESTIONS

We are a full service law firm that wants to service your needs.

Besides helping people with financial problems, our office helps people with all types of motor vehicle violations. Work related injuries and any other personal injuries.

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.

Steven N. Taieb has been Board Certified in Consumer Bankruptcy Law by the American Board of Certification since 1994. He has helped over 5000 people resolve their legal problems.