

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

There is still an incredible amount of confusion concerning Bankruptcy and its ramifications. Over the last seventeen years I have helped over five thousand people keep their property and get a fresh start.

Even though the Bankruptcy Reform Act is very close to passage, save for Senator Schumer's abortion discharge proposal, the present law still can do amazing things for honest debtors, who due to no fault of their own, sustained financial problems. Even when the new law passes, I WILL STILL BE ABLE TO HELP YOU, but there will be more hoops to jump.

Bankruptcy does have credit ramifications, but 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.

The following are the most recently asked questions regarding bankruptcy.

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

The answer is **NO** if your lawyer files the correct Chapter. If you do a Chapter 7 and have too much equity in your home or are behind on your mortgage payments, then your home is in danger. If you are behind on mortgage payments, you always want to do a Chapter 13. A Chapter 13 is reorganization compared to a Chapter 7, which is liquidation.

Under Chapter 13, I can set up a payment plan to catch up on the mortgage arrears over 5 years. This can be done anytime until the Sheriff Sale, but it is not advisable to wait and incur all the additional foreclosure fees and emotional stress. If a Sheriff's Sale or foreclosure is pending, our office will fax the petition to the attorney foreclosing and the Sheriff's office. The month after you file Chapter 13 you pay a trustee and resume your mortgage payment to the mortgage company, the next due date.

I have helped some clients save their home after the Sheriff's Sale had occurred, but this is extremely risky. ALWAYS file as soon as possible and definitely before the Sheriff's Sale.

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

YES. However, you must file the correct chapter and your license must be suspended solely due to monetary issues. If you are serving a 1-year suspension for a DWI, the Chapter 13 won't get back your license. However, if your license is suspended for fines and/or surcharges, Chapter 13 is the way to go.

As soon as the petition is filed, you go to the Division of Motor Vehicles and pay your \$50 restoration fee. If there are outstanding fines, you must get rescinding Orders to bring to DMV. If you can't get rescinding Orders, your attorney will have to file the applicable Motion to the Bankruptcy Court.

Chapter 7 will usually not get your license back since surcharges cannot be discharged in Chapter 7 under In Re Kent, and fines cannot be discharged under 11 USC 523 A (7)

Q. WILL I LOSE MY MOTOR VEHICLE IF I FILE BANKRUPTCY?

Like the situation with your home, you won't lose your vehicle if you file the correct Chapter. If you have a car or lease payment, there is minimal equity and you are current with payments, you can file a Chapter 7. If you are behind on car payments or the vehicle has been repossessed you better file Chapter 13 to get the vehicle back or keep the vehicle.

Chapter 13 presently gives you 3 options:

- 1) You can put the arrears in the Chapter 13 Plan and resume auto payments directly to the bank when they next become due;
- 2) You can payoff the balance of the motor vehicle in full through the Chapter 13 Plan plus contract rate of interest over the life of the Plan. This will save you an additional car payment since you have are paying the trustee for the vehicle;
- 3) Finally, you can cram down or pay the replacement value of the vehicle plus contract rate of interest over the life of the Chapter 13 Plan. This will relieve you of your obligation to pay the bank, since the trustee is paying the bank.

Q. MY CAR WAS JUST REPOSSESSED AND MY MOTHER WAS A COSIGNER. THE BANK SOLD THE CAR AND IS GOING AFTER MY MOTHER. WHAT CAN I DO?

Normally, if your vehicle were sold I would recommend a Chapter 7 to get a fresh start since your credit is damaged by the repossession. However, since you don't want the bank to go after your mother's property, you want to file a Chapter 13 since there is a codebtor Stay under 11 USC 1301. This means when there is a joint debt, the bank is Stayed from going after the cosigner if the debt is paid in full under the Chapter 13 Plan. If you don't pay the deficiency in full, the bank can file a Motion to Lift the Codebtor Stay, and go after your mother.

Q. WILL FILING BANKRUPTCY HELP ME PREVENT EVICTION SINCE I AM BEHIND ON RENT PAYMENTS?

Many people don't realize it but Chapter 13 also helps tenants under the present law. The bankruptcy code allows you to assume a residential lease and cure the arrears to a bankruptcy trustee as long as you resume your rent when it next becomes due.

As soon as the petition is filed the Landlord/tenant Court and the landlord's attorney is faxed a copy of the bankruptcy petition. You can file Chapter 13 up until the locks are changed, but my advice is to file before the Court hearing. Too many clients make bad deals with their landlords where they give them large sums of money and still get Warrants of Removal posted on their door. Please don't make any deals without talking to a knowledgeable attorney.

Q. MY SON HAS ASTHMA AND I JUST GOT LAID OFF. PSE&G WANTS TO SHUT OFF MY ELECTRIC. WHAT CAN I DO?

Section 366 of the bankruptcy code, requires a utility to turn back on your utility that was shut off if you file any bankruptcy petition. However, if you don't give the utility a deposit within twenty (20) days of filing, they can shut you off again.

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.

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.

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.

