

Chapter 13 Bankruptcy

Information About Filing Chapter 13 Bankruptcy

The present global recession has negatively affected almost everyone, people from all walks of life. Troublingly, today many people who continue to earn substantial income are still in financial dire straits, at risk of losing their homes. If you need to know whether Chapter 13 bankruptcy can help save your home, or other assets, and put you on the path to financial recovery, we encourage you to contact an attorney from Tully Rinckey, PLLC.

Main Benefits

A Chapter 13 debtor gets to keep his or her property and provides a mechanism to pay and satisfy creditor claims through the Chapter 13 plan bankruptcy. For example, if a debtor owns a home and wants to keep living in it, but is in significant default of his or her monthly mortgage payments, by filing Chapter 13 the debtor would be given time to cure the arrears (the missing payments) through the plan, and to force the mortgage company to accept current mortgage payments. Alternatively, the debtor could seek to refinance or sell his or her house (subject to Bankruptcy Court approval) through his plan. Essentially, Chapter 13 provides many different options to individuals to provide them with the best opportunity to allow a debtor to keep their property and to return to financial stability. How Does Chapter 13 Work?

Chapter 13 bankruptcy is designed for working people with steady income, who want to pay their debts, but are currently overwhelmed by their bills. A Chapter 13 requires a repayment plan, using your future earnings to satisfy mortgage and tax debts and to pay some portion, or all, of your unsecured debts (such as credit cards, medical bills, etc.) In some circumstances, Chapter 13 can be used to remove a second mortgage, when the value of your home is less than the remaining balance due on your first mortgage. The time period allowable by the Court to repay your debts may be three to five years, depending upon your income and other factors. While creditors do not set the terms of the plan, a debtor must submit a plan that sets a payment sufficient in an amount to cure the mortgage default and to pay a portion of the unsecured debt. The Bankruptcy Court must approve a plan before it can take effect. While a Chapter 13 plan is in effect you must remain current on your monthly mortgage payment, including real estate taxes and homeowners insurance, and current on your monthly household expenses. Creditors (including mortgage holders) may not either start or continue their collection efforts, and they must accept what the plan pays them, so long as the payment is in sufficient amount to cure the claims. Eligibility

In order to be eligible to file for Chapter 13 protection, you must be working or have a consistent source of income. You must be able to prove to the Court, by your production of financial records and information, that you can afford the payments, both mortgage and plan payments. There are statutory limits to the amount of debt you can have when filing for Chapter 13 bankruptcy. In order to be eligible to file for Chapter 13 relief you must owe less than \$1,010,00.00 in mortgage debt (secured), and less than \$339,000.00 in credit card / medical bill debt (unsecured).Mortgage Foreclosure

Filing a Chapter 13 bankruptcy can be the best method to prevent a foreclosure sale of your home. A Chapter 13 filing will stop a foreclosure action at any time prior to the sheriff's foreclosure sale, and will allow you to repay your past-due mortgage arrears. If, however, you were to file bankruptcy after the sheriff's sale, you most likely will have lost your opportunity to save your home.Plan Options

Issues other than foreclosure may be affecting your decision to file for Chapter 13 protection. Chapter 13 bankruptcy may be an option if you want to save "non-exempt" property such as bank accounts, real estate investments, or jewelry, property that would be otherwise sold by a trustee in a Chapter 7

proceeding. Similarly, if you need bankruptcy relief, but do not qualify for Chapter 7

under the Means Test, Chapter 13 may be the solution. Finally, you may need time to pay certain debts that cannot be discharged, such as tax debt, student loans, or back child support.Chapter 13 bankruptcy can provide you with the bankruptcy protection you require to keep your assets by providing individuals with sufficient options to pay back their debts which are not otherwise available in other bankruptcy chapters.Trustee

In Chapter 13, the debtor repays creditors over time based upon the money left over each month after expenses. Each month, the debtor must pay the Chapter 13 Trustee the required plan payment. The Trustee is an attorney designated by the U.S. Trustee's Office, who will administer the bankruptcy case. It is the duty of the Chapter 13 Trustee to distribute those funds to the debtor's creditors.The Chapter 13 Trustee will conduct the meeting of creditors, where the debtor's financial information will be examined and any concerns of the trustee will be addressed. The Trustee must be provided certain financial information, and The Trustee is the court officer who will recommend to the Court either to confirm the plan or alternatively, to recommend dismissal of the case due to the debtor's failure to make required payments or other procedural defaults.Discharge

Upon the successful completion of a Chapter 13 plan, the debtor receives a Certificate of Completion and Discharge, which extinguishes all obligations to make further payment toward the unsecured debt, even though the creditors were likely not paid in full. In fact, most Chapter 13 debtors repay their unsecured creditors no more than 10-30 percent of the total amount owed. Additionally, upon discharge, the debtor should have cured all of the mortgage arrears leaving the debtor in a financial position of simply remaining current on the monthly mortgage payment.Speak With Us

If you are considering filing Chapter 13 Bankruptcy, the first step you should take is to speak

with a knowledgeable and experienced bankruptcy attorney. The team at Tully Rinckey, PLLC handles Chapter 13 bankruptcy cases on behalf of individuals throughout New York. Our lawyers will review your situation and help you determine if bankruptcy is the right step for you. For a free initial consultation with an experienced bankruptcy

attorney, call our offices at 1-888-529-4543 or send an email to info@1888Law4Life.com

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