BKGlobal®

Better Bankruptcy Solutions

BENEFITS OF SELLING REAL ESTATE IN BANKRUPTCY

UNDERSTANDING

BANKRUPTCY

REAL ESTATE OPTIONS

Bankruptcy Should Prevent **FORECLOSURE**

Bankruptcy was created to give individuals a legal vehicle to settle debts or negotiate manageable terms.

It is intended to provide options for debtors to avoid foreclosure.

(THE WORST OUTCOME)

FRESH START

Foreclosure is extremely detrimental to a debtor's financial future and minimizes or eliminates the chance of a "fresh start".

Selling in bankruptcy offers the debtor a true "Fresh-Start", enabling them to re-establish credit in 18 - 24 months and allowing them to buy a home versus foreclosure which hampers credit for 7 years. Even after that time they will still have difficulty qualifying and will pay a much higher interest rate.

95%
Failure Rate

95% of Debtors
who are delinquent with their mortgage end up in foreclosure.

This is contrary to why bankruptcy law was created.

The law is clear so why does this happen?

Here are some of the common reasons:

1) Trustee abandons the asset that the debtor has elected to surrender, (Through the BKG program creditors provide a way for Trustees to get carve-outs on these assets and consent to the sales process benefiting the estate.)

2) Trustee abandons the asset that the debtor has elected to retain, (Within 30 days a debtor is required to make arrangements with their creditor and in most cases, they don't which does not resolve the hardship that should be addressed by bankruptcy. The BKG program works with trustees and creditors to address this issue on severely delinquent assets to assist Trustees in resolving this issue and clearing a path to help the debtor which creates a benefit to the estate.)

3) Judge denies the sale. Historically this is due to poorly argued motions. The law is clear and allows sales with carve-outs. The BKG program, provides draft motions that have been approved by courts.

4) UST denies the sale due to excessive professional compensation. The BKG Program used by hundreds of Trustees has successfully navigated the court process in over 60 districts.

The Purpose of Bankruptcy

THE U.S. COURTS WEBSITE STATES

The fundamental goal of the Federal bankruptcy laws enacted by Congress:

To give debtors a financial "fresh start" from burdensome debts and provides for "liquidation" in a Chapter 7 filing—the sale of a debtor's property and the distribution of the proceeds to creditors.

Debtor Surrenders Real Estate

If a debtor elects to surrender their property, the trustee has a fiduciary to administer a sale as stated in 11 U.S.C. § 704, 28 U.S.C. § 586. ***Most debtors believe that they surrendered their home (exercising their rights), later to find out the bankruptcy has failed them and that they are then dragged into foreclosure litigation.***

Debtor Retains Real Estate

Important requirements to retain real estate

1) Debtor **MUST be current** on their mortgage, or they need to qualify for a loan modification.

2) To qualify for a loan modification in bankruptcy the debtor **MUST have income** to cover a debt-to-income ratio of 43% or less.

3) Debtor **MUST make arrangements** with their secured creditor within 30 days of the 341 meeting.

4) If a debtor is significantly delinquent (90 days or greater) over **95% end up in foreclosure.**

Debtors have a misconception that merely electing to retain real estate qualifies them for a resolution with the creditor. Trustees should advise the debtor and counsel that this does not just happen and the potential of foreclosure.

A Trustees Fiduciary Duty

The law is also clear that when selling fully encumbered property, **the trustee MUST administer the sale to avoid a diminution of funds otherwise available for unsecured creditors,** 11 U.S.C. § 704, 28 U.S.C. § 586. The trustee has a fiduciary duty to ensure the law is followed and should sell an asset to settle the debt to protect and preserve funds available to the unsecured creditors.

The Trustee Handbook also states: "The Chapter 7 Trustee is the representative of the estate. 11 U.S.C. § 323(a). **The Trustee is a fiduciary charged with protecting the interests of all estate** beneficiaries—namely, all classes of creditors, **including those holding secured**, administrative, priority, and non-priority unsecured claims, **as well as the debtor's interest** and any possible surplus property."

However, most of the surrendered properties in Chapter 7 are abandoned, creating increased financial hardship to both the debtor and the secured creditor.

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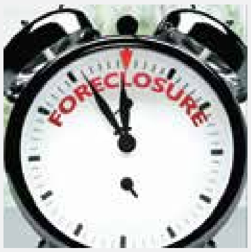
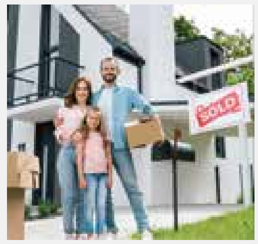
To learn more visit **www.bkginc.com**
or email **info@bkginc.com**

Benefits of Selling Real Estate in Bankruptcy

AVOID FORECLOSURE



GRACEFUL EXIT



MOVING ALLOWANCE

PRESERVE CREDIT

ABILITY TO BUY A HOME

FRESH START!

SECURED CREDITOR

ESTATE CARVE-OUT

UNSECURED CREDITORS

BKGlobal®
Better Bankruptcy Solutions

SOLUTIONS THAT FULFULL THE PURPOSE OF BANKRUPTCY

To learn more contact Pilar Tobias 408-396-3993