**Keeping and Saving Your Home in Bankruptcy**

**IF I FILE BANKRUPTCY, WILL I BE ABLE TO KEEP MY HOME?**

In many cases, the answer is yes. You may be able to keep your home, and even save it from foreclosure if you are behind in your mortgage.

**DOES IT MATTER HOW MUCH MY HOME IS WORTH?**

In Indiana, an individual is allowed an “exemption” up to $17,600 in the home. If more than one person owns the home, each is allowed the full exemption. The exemption applies towards your equity in the property. Equity is the value of the property, minus any mortgages or liens. For example, if an individual owns a home that is worth $60,000, and the mortgage is $55,000, the equity is $5,000, and the home would be exempt. This exemption applies both to residential real estate and to mobile homes.

Please note, the exemption amounts are subject to change from time to time.

In certain circumstances, a married couple can exempt all the equity in the home, regardless of amount. There are limits to this rule, and you should see an attorney to explore them further.

**IF I KEEP MY HOME, WHAT HAPPENS TO THE MORTGAGE?**

In a Chapter 7 case, one way you may keep your home is by “reaffirming” the mortgage. This means you sign an agreement to continue paying your mortgage. In other cases, you may simply keep paying the mortgage without reaffirming. If the lender is willing, mortgages can be re-negotiated, to get a better interest rate, and lower payments. Your attorney will advise you on the best action.

**WHAT IF I AM BEHIND ON THE MORTGAGE?**

In a Chapter 7, you can try to negotiate a repayment schedule, but this must be approved by the lender. An alternative is Chapter 13, in which you may be able to repay the arrearage as part of a court-approved payment plan. See our brochure explaining Chapter 7 and 13 Bankruptcies, for more details.

**WHAT IF I MY HOME HAS TOO MUCH EQUITY?**

In a Chapter 7 case, if you have too much equity in your residence, it may be sold by the Trustee. The Trustee would pay from any sale proceeds any mortgage and liens, pay you the amount of your exemption, and pay the remainder (minus fees and costs) to creditors. If you file a Chapter 13, you may be able to keep your home by paying the excess amount of equity (your equity minus your exemption) in a court-approved payment plan. A bankruptcy attorney can evaluate your financial circumstances to see if a Chapter 13 would work for you

**WHAT IF I WANT TO GIVE THE HOUSE BACK TO THE LENDER?**

One of your options is to surrender the home to the lender or lenders. This must first have the approval of the Bankruptcy Trustee, which will usually happen shortly after you file. The lender takes possession of the home either by taking a deed or by foreclosure. If a foreclosure is filed, and there are sale proceeds left over after payment of the mortgage and costs, you may get some of the proceeds – but this is very rare. You will owe nothing further to your lender or lenders. The timetable for moving out and other details can be worked out with the lenders, and your attorney can help or advise you.

**ARE THE LAWS DIFFERENT IN OTHER STATES?**

Yes. The “exemption” laws are different. The dollar figures discussed here are for Indiana bankruptcies only. Other states have different kinds of exemption laws, and different amounts. The exemption laws covering the property are usually those of the state in which it is located.