

## Bankruptcy Will Stop a Foreclosure

A loss of income, for any reason, can put you behind on your house payments. When you can't catch up in time, your home may be scheduled for a foreclosure. In Tennessee, the actual foreclosure process takes only about 30 days. The lender must advertise the foreclosure sale in the newspaper, usually the "Legal Notices" section of the classifieds, for three consecutive weeks, and the sale occurs on the fourth week.

The lender may be willing to work with you if you can come up with some extra funds. This might include loss mitigation, where the lender accepts a temporary payment plan with a regular mortgage payment plus an amount to catch up on the missed payments. It could involve a loan modification, where the lender rewrites the loan, possibly bringing the interest and the payments down. These days the lender may be even more willing to do a loan modification under the President's Making Home Affordable Program ([makinghomeaffordable.gov](http://makinghomeaffordable.gov)).

Sometimes, however, despite all your best efforts, the foreclosure date is set and there is nothing you can do to stop it. But wait! There is one last thing you can look at bankruptcy. For a person who has not filed bankruptcy before, any bankruptcy will stop a foreclosure. (There are some restrictions for "repeat filers".) There are two types of "consumer" bankruptcies Chapter 7 and Chapter 13.

A Chapter 7 "straight" bankruptcy will stop the foreclosure, but to keep your home in a Chapter 7, you must be current on the mortgage payments, including late payments and attorney fees, and then you must make your regular monthly mortgage payments from there. You must keep up payments on any other "secured" debts, such as a car payment.

A Chapter 13 "reorganization" will stop the foreclosure and catch up the payments so you can keep the home, as well as reorganizing your other debts. With this type of bankruptcy, a person with "regular income" from virtually any source, even welfare income, can reorganize their finances so that they have enough for their living expenses, and the rest goes to pay debts, the mortgage payment and the mortgage "arrear". Other "secured" debts are reorganized as well. After the Chapter 13 is over, the homeowner is current on the mortgage and usually debt free, so they just pick up their regular mortgage

payments again and any debts that could not be discharged in the bankruptcy (student loans, etc.).

Even though a bankruptcy will stop a foreclosure at the last minute, do not wait to discuss this with a lawyer. Most bankruptcy lawyers will meet with you and discuss it without charge, so that you can find out if a bankruptcy would work for you. Remember, though, you must provide all the information about your debts, assets, income and expenses, so the lawyer can understand your financial situation and prepare the necessary paperwork to file the bankruptcy with the Bankruptcy Court. Give yourself the time to get all that together.

Each case is different. This information cannot take the place of advice from a lawyer.

**By Sheri Gonyea  
Contract Bankruptcy Attorney  
Legal Aid Society**

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