

Do you have equity in Real Estate? We will help you!

One of the biggest myths I hear from people regarding bankruptcy is that they cannot file bankruptcy because the Trustee will take their home.

People often believe that if their house has equity, the Trustee will sell their property, disburse the proceeds to their creditors, and leave them without a home.

This is a common myth that is certainly not always the case.

A few months ago, I met with a couple who had a substantial amount of debt. Unfortunately, due to health concerns, the husband was forced to retire and, as a result, had a significant reduction in income. With his previous employment, he had no problem paying their debts in a timely manner. However, he could no longer afford his debt payments and they found themselves sitting in my office discussing their options. As we sat down and began to talk, the husband looked at me with tears in his eyes and asked, "How long until we have to be out of our house?" He proceeded to tell me that this has been their family home for the past 30 years. They raised their children, spent every holiday, and shared many special memories in this home. The thought of losing their home was devastating. I immediately assured them filing bankruptcy did not mean they would lose their home. As I dug deeper, I discovered that they bought their home when they were married, and the deed to the house was in both of their names as "tenants by the entirety". This is a legal term describing ownership of property that frequently occurs where the owners of the property are married. This type of ownership provides special protection to marital property, because each spouse has an equal and undivided interest in the property. As is often the case, my clients' debts were individually, not jointly, owed. Thus, neither the husband's nor the wife's individual creditors had a claim against the value in their home. This allowed them to file a Chapter



7 bankruptcy and discharge their debts without any fear that they would lose their home and the significant equity they had worked to build over the years. They were beyond excited to hear this news!

A knowledgeable bankruptcy attorney should also be able to recommend other bankruptcy options designed to protect a home or other valuable property. Chapter 13 bankruptcy allows debtors to keep all of the property that they can afford. This is done by making payments to the trustee who, in Chapter 13, does not sell a person's property. Payment plans in Chapter 13 can be spread over a 3 to 5-year period, allowing payment to occur on an affordable and manageable schedule.

Don't be reluctant to get advice about bankruptcy because of the fear of losing your home. The truth is, bankruptcy may be exactly what you need to protect and save your home. Call us for a free consultation.



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Matthew Hahne is a Shareholder and the Partner in Charge of the Virginia Beach office of Boleman Law Firm. He has been practicing bankruptcy law since he joined Boleman in 2008. Prior to joining Boleman, Matthew was a prosecutor for the City of Norfolk for 4 years.

Matthew specializes in Chapter 13 and Chapter 7 consumer bankruptcy. He is a frequent speaker at professional development seminars, community outreach events and churches on bankruptcy issues including foreclosure prevention, common myths about bankruptcy, and managing financial problems.

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