

Divorce consequences of moving from a common law State to California

BARRISTER'S CORNER



ATTY. KENNETH URSUA REYES

CALIFORNIA is a community property state. This means property acquired by a couple during the marriage is community property for which each spouse has an equal interest. Other states such as New York and Connecticut are common law states. Property acquired by each spouse even during the marriage are the respective spouse's separate property. What happens to a property purchased in a common law state if the couple moves from a common law state and established domicile in California which is a community property state? What if the couple continues to own properties in the common law state but initiates divorce in California after they have established domicile in California? The establishment of a California marital domicile may trigger what is called California "quasi-community property" law, under which the parties' common law separate property will be treated as if it were community property for certain purposes. This means quasi-community property will be treated as part of the community property estate and will be divided as if it were community property. "California's marital property laws are designed to

provide for uniform treatment of quasi-community and community property when the parties have changed their domicile to this State and seek to legally alter their marital status in a California court.

Quasi-community property" is defined as real and personal property, wherever situated, which would have been community property had the owner spouse been domiciled in California at the time of acquisition, and any property acquired in exchange for such property. In order for the out of state property to be treated as Quasi-community property, both spouses must have established California as their marital domicile unless the non California domiciled spouse consents to jurisdiction in California and to the application of California marital law. Also, if the out of state property would have been treated as the spouse's separate property if the spouses were domiciled in California at the time it was acquired, then the property cannot be quasi-community property.

Couples that own properties in common law state should obtain the assistance of an experienced attorney when contemplating divorce, legal separation, or annulment proceedings.

Attorney Kenneth Ursua Reyes was President of the Philippine American Bar Association. He is a member of both the Family law section and Immigration law section of the Los Angeles County Bar Association. He has extensive CPA experience prior to law practice. Law Offices of Kenneth Reyes, P.C. is located at 3699 Wilshire Blvd., Suite 700, Los Angeles, CA, 90010. Tel. (213) 388-1611 or e-mail kureyeslaw@aol.com. Website kenreyeslaw.com (Advertising Supplement)

HOME BUYERS



KENNETH GO

IF you are having a lawyer do your Loan Modification, be aware that lawyers do not guarantee the outcomes of their cases or matters. If you have spoken to a representative of the Law Firm, keep in mind they are all independent contractors and what they say they cannot represent the Lawyer or law firm.

Here are some of the comments I have gathered online by thousands of homeowners seeking a Loan Modification on their existing loans.

Question: I'm in a fix myself, and I've been a REALTOR for 17 years. There are a lot of angels, on the loan mods, some want money up front, and there is no guarantee a loan mod will be approved even with a rep co. and you've lost 2 months to find out that it's a no.

The problem is when most of these people dont have any equity, so I have a different mindset, on chapter 13 or sell, can we check with Better Business Bureau (BBB) for the reputation of these Loan Modification companies?

Answer: Well, the BBB seems to be giving all loan mod companies lower than expected ratings due to the fact that the field is getting filled with corrupt businesses. The legitimate companies are being spoiled by being in a bunch of rotten apples. That said, it is one of the sources you should examine, but not

Loan modification and fraud information

the only source.

No way around it, many potential clients who call my office want to hear that we guarantee their loan modification. They have read promises of balance reductions and super low fixed rates on the websites sites of loan modification companies, heard the radio commercials, and opened their junk mail (both email and US Mail).

We know what people have heard. But when one thinks it through, a guarantee is just plain ridiculous. Each loan modification is unique. Some of the factors at play are the borrower's ability to pay, the hardship, the location of the property, the amount of equity to loan balance, the lender's financial situation, the attitude of the negotiator at the lender, the timing (whether the month was bad for real estate sales or really bad for real estate sales).

So many things affect the outcome. One of the hardest parts of advising people on loan modifications is making sure that a person really wants to stay in his home. Sometimes, the home is just unaffordable, no matter how low the rate.

When someone makes \$3k a month and they bought a \$700k home with no money down, it might be time to face the facts. Letting the house go through short sale or otherwise and then renting might really be the best choice. This is a discussion I have with my clients, and I make sure they get an education on all their options. The decision is left to the client, but I make sure it is an informed decision.

Question: My neighbor had

a guy call him about a loan modification and said he was a lawyer. He said it would cost 3,000 dollars for his fee and he would take the cost of his house from 310,000 to 233,000 and bring his interest rate from 6.5 to 5, plus 3 months off from paying his mortgage. Now this sounds too good to be true.

Is there anyway this could be for real?

Answer: Well, I guess it could possibly under some special set of circumstances if the stars and planets are all in alignment. But how would someone know exactly what interest rate and exactly what balance a person would get? Any such claims should be examined for misleading statements very carefully and then? Examined again.

Question: If a scammer has already taken my money, then failed to modify my mortgage, can your firm sue them? How much?

Is there a statute of limitation when suing my lender for predatory lending? That is, if it has been more than three years since the loan closed, do I still have a case?

Answer: In general, California law prohibits a non-licensed attorney or a non-DRE approved company from taking money up front to handle a loan modification if the borrower is in default. Violating California law on this matter might result in the illegal act-doer being hit with THREE times the charge for the service as a penalty. As to statutes of limitations, each statute sets its own limit and the same holds true for non-statutory laws.

In regards to Fraud, I got a call from a homeowner who

had transferred he title to her property to a LLC (Limited Liability Corporation) and this company supposedly will give her money to help her pay for her mortgage. This company is run by a couple of Filipino Agents and is currently being investigated for Fraud. What they did was they hold seminars and ask for homeowners to transfer the deed of their property to a LLC. Then they are suppose to help the homeowners with payments and help them modify their loan. The minute I talk to this homeowner I told her that this is a scam and you should request for this company to transfer the property back to you. She actually is still hoping for this company to give her some money?

For BOA customers who are in Default payments, there is an email going around about the government granting you the full pardon of your loan balance, for \$450 you can take advantage of this government assistance. Here is the exact phrase from the email:

"Please note: The escrow account activation fee of \$450 could not be deducted from your funds as your funds are protected by a federal government premium hardcover-insurance policy installed to prevent any deductions from your funds by financial institutions until remitted by you".

So, be careful out there you don't need new misery, but resolution and closure."

For my honest opinion, call me direct be prepared to listen to my truthful and very direct advice. Call Ken Go at 1st Innovative Finance (888) 822- 5363 or write to: kennethgo@verizon.net Please be understanding to yourself, mistake can be made to better yourself in the future.

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ATTY. JOEL R. BANDER

THE Bureau of Labor Statistics reported that the employment growth rate in the country has been trending down while the unemployment rate has risen to 8.1% in February 2009. Construction and manufacturing reflected a slight decline while job growth in major industries in both the goods-producing and service-providing sectors continued to decline significantly. However, despite this reported weakening labor market condition, stories of labor shortages in various industries abound. Among the industries reportedly expanding are education and health services while leisure and hospitality remains substantially unchanged.

One solution seen to address the labor shortages is the hiring of foreign workers. Many employers in the industries experiencing labor shortages require temporary or seasonal workers owing to the nature of their business. Seasonal employers have the most challenging time in attracting local workers to take temporary employment without the benefits customarily given to regular employees. On the other hand, maintaining regular workers for seasonal services could be detrimental to the business' profitability. Employers faced with this dilemma may hire foreign workers to fill temporary positions under the H-2B program.

To qualify under the H-2B program, the US employer must be able to show that its need is temporary as justified by one-time occurrence, intermittent, seasonal, or peak

H-2B visa for seasonal employees

load nature. It must also show that there are no US workers available, willing or qualified in the area of the proposed employment. Further, the employment need must be full-time and generally not longer than 10 months for recurring employment need.

Occupations common in H-2B petitions include hotel and restaurant workers, resort and spa workers, construction workers, entertainers, and child care and home support

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workers. H-2B may also be appropriate for programmers for a temporary assignment of installing a new computer program, professionals to work on a contract needing expertise not normally needed by the employer, or for relieving a regular employee during a leave of absence.

Like H-1B and other non-immigrant worker petitions, H-2B petition is filed with the US Citizenship and Immigration Services (USCIS). Prior to filing a petition with the USCIS, the employer must first obtain a temporary labor certification determination from Department of Labor (DOL). The application for temporary labor certification must be filed at least 60 days but not more than 180 days prior to the designated date of need for employment. An application can cover more than one worker, provided it is for the same occupation, area of intended employment, and period of need.

After certification, an H-2B visa petition is filed at the

USCIS designated office along with the approved Labor Certification from the DOL. The H-2B visa petition must include copies of evidence that each foreign worker named in the petition meets the minimum job requirements stated in the certification. Currently, it takes about 60 days for the USCIS to process H-2B petitions.

Obtaining labor certification and H-2B visa for a foreign worker may entail a lengthy and complicated process. However, a competent and experienced lawyer should be able to guide and assist the US employer in completing the process.

If you have any questions, it is best to consult with an attorney. Bander Law Firm has been serving the community of

Los Angeles, CA since 1987 and has multilingual staff who can communicate effectively in Tagalog, Spanish, Sinhala, Farsi, Russian, Korean and Mandarin. Please feel free to call Bander Law Firm at 213-873-4333 to schedule your free initial consultation on immigration concerns. Bander Law Firm provides full range of legal services in the fields of Mortgage Litigation, Bankruptcy, Immigration, Personal Injury, Criminal and Removal Defense, Civil and Business Litigation, Wage and Hour Litigation and Class Action lawsuits.

Atty. Joel R. Bander is the partner of Bander Law Firm, LLP. With over 15 years of litigation and immigration experience, Mr. Bander is a leading litigator and accomplished trial strategist. He has successfully handled numerous cases before Federal, State, Civil, and Criminal Judges and has participated in hundreds of arbitrations and trials.

Bander Law Firm, LLP Downtown office address: 1055 W. 7th Street, Suite 1950, Los Angeles, CA, 90017. Tel: (213) 873-4333 Fax: (213) 873-4334. San Gabriel Office address: 1045 E. Valley Blvd., #A215, San Gabriel, CA 91776. Email: info@bandlerlaw.com.

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You need an attorney to fight for you.

With more than 21 years of skilled advocacy and experienced representation, the firm has obtained significant million dollar recoveries for injured consumers, policyholders and employees.

Backed by a solid track record, the law firm has consistently fought for the rights of Filipinos and their families seeking justice against big businesses, insurance companies and employers.

Law Offices of

C. JOE SAYAS, JR.

Tel. No. 818.291.0088

www.joesayaslaw.com

700 N. Central Avenue, Suite 235
Glendale, CA 91203

Our attorneys' accomplishments have been recognized by The Los Angeles Daily Journal, Million Dollar Advocates Forum, and various community organizations.

Your inquiries are welcome and at no cost to you.