DEBT RELIEF

ATTY. LAWRENCE YANG

Senate rejects mortgage reduction bill BK amendment

PART of President Obama's plan to reduce foreclosure was to amend the new Bankruptcy Code to empower bankruptcy court judges to reduce the balance of mortgages to be in line with the current fair market value of residences, reduce interest rates and extend the term of the mortgage. Under the proposed amendment, a Chapter 13 debtor who lives in a house that has a current fair market value of $250,000 but with a first trust deed balance of $400,000, and a second trust deed balance of $75,000, would be able to ask the judge to reduce the $400,000 to $250,000, and void the second trust deed balance of $75,000 completely. The House approved this proposal last month, and with the Democrats controlling the Senate as well as the House, it was expected that the Senate bill would sail through without any obstacle. But 12 Democrats joined Republicans with a vote of 51 to 45 to reject the proposal. Current Bankruptcy law does not allow judges to reduce any balance of the first trust deed that exceeds the current fair market value of real property but allows judges to lien strip the second trust deed if there is no equity supporting it. This has been the law in California for the last ten years when Judge Mund of the Woodland Hills bankruptcy court first allowed it. The unsecured second trust deed is converted into an unsecured debt, just like a credit card debt, and is discharged when all plan payments are completed. In many cases, where debtor operates on a very tight budget, available disposable income is small, and debtor's end up paying only the default portion of the first trust deed over 3 years where the second trust deed holder practically gets nothing.

Many homeowners have been waiting for this part of Obama's plan for foreclosure mitigation to take effect. Loan modifications allow creditors to pick and choose accounts they want to modify, but the proposed amendment to bankruptcy law would allow debtors to force modifications to the terms of the mortgages that they want. In addition, many homeowners in California have two mortgages, a senior and a junior lien because many people here bought houses using 80/20 loans, and many homeowners here obtained home equity lines when house values continuously escalated. Thus, many homeowners in California could not qualify for the TARP program which allows refinancing up to 105% of the current fair market value because they had second trust deeds, not to mention the fact that house values here have plummeted too drastically leaving large balances on first trust deeds unsecured by any equity. But with the new program introduced by the President last week, the government will swoop in to buy second trust deeds at 5 to 10 cents to a dollar, relieving homeowners of the second trust deed burden. Whether or not this program will work remains to be seen. A proliferation of loan modification experts has emerged in the last several months. Even McDonald's offers loan modification with the Big Mac, and KFC offers loan modification with the 20 pc. Family bucket.

The defeat in the Senate was a surprise to Democrats themselves. Citibank and other banks had signaled their consent to the proposed amendment several months ago. But that was during the time that the government was doling out bail out funds to them. Now that the banks have lined their pockets with the lion's share of bail out funds, they have done an about face. Banks lobbied very strongly in the Senate to have this bill defeated. No wonder 12 Democrats were convinced to join Republicans in voting against the amendment to bankruptcy law. What else is new? Politics and bank lobby money have always gone hand in hand. However, we certainly hope that the President will bring his tremendous charm to bear the next time this bill is taken up by the Senate.

If you need debt relief, contact my office. I will analyze your case personally.

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Lawrence Bautista Yang specializes in bankruptcy, business, real estate and civil litigation and has successfully represented more than five thousand clients in California. Please call Angie, Barbara or Jess at (626) 284-1142 for an appointment at 1000 S. Fremont Ave., Bldg. A-1 Suite 1125 Unit 58, Alhambra, CA 91803.

(Advertising Supplement)

New relief for widows and widowers of deceased US Citizens

PROBLEM SOLVED

ROBERT J. DUPONT

TODAY I had the pleasure of taking a client to her legal permanent residency interview. You should ask me, "So what attorney? This happens every day." What is remarkable is that my client had entered the country in 2001 under a temporary program known as the V-2. As the beneficiary of the V-2 we were able to demonstrate that she had maintained lawful status since her entry 8 years ago, and that she was entitled to work the entire time. This allowed my client to remain in the US lawfully and she was not subject to any penalties or fees under INA Section 245i.

The V-Visa program allowed spouses of legal permanent residents whose immigrant visas had been pending for more than three years and their children to enter the United States and wait for their visa numbers to become current. Yet, a number of cases were being held in abeyance for children who aged-out. These children were being denied work authorizations, travel authorizations and perhaps most importantly, applications for permanent residence.

In Akhtar v. Burzynski, I convinced the United States Court of Appeals for the Ninth Circuit that the "age out" regulations drafted by the USCIS did not match the laws passed by Congress. As a result, CIS' regulations were overturned by the Court. Ultimately USCIS was forced to issue a nationwide memorandum wherein its policies in the adjudication of V-2 visas were revised in accordance with the decision of the United States Court of Appeals.

It was gratifying to say the least, some five years later to see the fruits of my labor; a grateful client with tears in her eyes as she received her approval notice. I encourage all persons who entered the United States under the V-Visa program particularly young persons who were issued denials of work authorization and demands to leave the United States, to seek qualified legal counsel before filing your adjustment of status application. The benefits of this change in the law may be lost if a client and their attorney is not able to show that they consistently maintained legal presence in the United States even after reaching the age of 21. As the attorney responsible for this change in the law I believe it is extremely important that all V-2 visa holders reap the benefits of this case.

***

Robert J. DuPont is an attorney with the law firm of Wilner & O'Reilly. Mr. DuPont Graduated from Yale University and USC Law School and is admitted to the California Supreme Court, and Federal District Courts in the Central and Northern Districts of California as well as the 9th Circuit Court of Appeals. Mr. DuPont is a regular speaker with ILW, and past chairman of the Immigration Law Committee with the Beverly Hills Bar Association. Mr. DuPont has risen to prominence with a 10 year practice in the field of immigration law as well as influencing Department of State and USCIS practices and policies through Federal District Court litigation including a Ninth Circuit Court of Appeals decision on V-Visas eliminating age-out of minor V-visa recipients.

Please contact Robert DuPont at (562) 207-6789 or 1-877-7MABUHAY. Wilner & O'Reilly, APLC, is located at 17777 Center Court Drive, Suite 200 Cerritos, CA 90703. Visit www.wilneroreilly.com.

(Advertising Supplement)

Finding the Right...

From PAGE C3

specific needs holistically will allow you to identify what type of skill set, training background and character profile your caregiver should have. The more in-depth you are in identifying the care needs of your Mom and Dad, the better your chances are of finding the right person who will effectively care for them. A planned approach is important in order to save yourself the hassle of potentially getting the wrong caregiver. Seeking recommendation from your parents' physician with regards to their needs and daily activities will give you insight into the type of care they may require. You can also consult a hospital professional who can recommend homecare providers or facilities for your parents based on their needs. Other sites, like Eldercare.com, have articles and information on finding caregivers. A simple Google search will also help you find homecare assessment programs, with forms you can fill out to effectively gauge Mom or Dad's need for homecare.

After a thorough assessment of your parents' needs, it's time to identify if you will need someone for the long-run or short-term only. You should weigh the benefits of a short-term care provider vs. a long-term caregiver relative to the immediate and future needs of your parents. Take into account the differences in tasks they can provide. First, a short-term caregiver will only deal with simple domestic activities after a patient has undergone hospitalization, which includes services like respite care. If long-term care is what your parents need, then you have to make sure that the person you are hiring is skilled in assisting with long-term illnesses and issues. The length of time that a caregiver will render services is a determinant in the form of care they will provide.

Third, you should have in-depth knowledge on the background and skills of the caregiver you will be hiring. When approaching a homecare agency or interviewing a potential caregiver, have a list of questions ready that will determine whether or not the homecare provider has the skills you need. Below are some questions from an article on Eldercare.com entitled, Finding the Right Caregiver. These questions will be useful whether working with a Homecare agency to get a caregiver, or directly hiring an independent homecare provider.

Interview questions to an agency or independent homecare provider

Interview Questions for a Home Health Agency

If you have decided to utilize an agency to find an appropriate caregiver, ask the owner or agency manager some questions before hiring a homemaker or home health aide. Here is a sample list of questions to ask an agency:

Is this agency licensed and bonded?

Are all of your homemakers licensed and bonded?

What kind of training, if any, do the home health aides and homemakers have? (some home health aides may be a Certified Nursing Assistant, for example)

Do you have any caregivers that have experience with dementia?

How many years experience do your homemakers and home health aides have?

How long have you been in business?

Is there a minimum of hours?

How much does it cost?

What if the person gets sick at the last minute and can't make it?

Do you have an R.N. on staff?

Is live-in care available?

Do you have homemakers and home health aides who can drive?

If so, do you check their driver's license and insurance?

Interview Questions for an Independent Home Health Provider

If you have decided to consider an independent provider, have them come to your residence on a day when you can observe them interacting with the patient. Additionally, you should consider asking them the following questions:

What relevant schooling, classes, or education do you have?

How long have you been doing this?

What types of clients (range of disabilities) have you worked with?

Do you have experience working with clients with dementia?

Are you insured?

Are you bonded?

Can I have a list of 3-5 references?

What do you enjoy the most about being a home health aide or homemaker?

What do you enjoy least about being a home health aide or homemaker?

Do you drive, and if so do you have a current insurance and a current driver's license?

Last but not the least, use your intuition when searching for the right person to care for your parents. There are some things that you cannot immediately see with your eyes or know plainly just from the facts at hand. When entrusting someone you care about to a person you've never met or barely know, use your gut feeling. When interviewing them, look into their eyes and observe their body language and the way they carry themselves. Body language is an important factor in trying to assess the general disposition of a person. What comes out of their mouth when answering a question or verifying a statement is only seven percent (7%) of the message they're relaying. Listen to them, pay attention to their behavior and evaluate if the person's actions, words and character is enough to gain your trust.

A caregiver is your partner in expressing your love for Mom and Dad, especially if they are approaching their final days. Most likely, you're searching for their care provider because they want to spend these days in the most comfortable and important place in their life--their home. Having the best caregiver who is skilled as well as compassionate, will ensure that your parents' can live out their lives pleasantly and peacefully.

* * *

Charmaine Teodoro is the Senior Vice President of JUNO Healthcare Staffing, a group of companies that recruit RNs, LPNs, CNAs and allied healthcare professionals and deploys them to healthcare facilities on a full-time, part-time, per diem or travel assignment. It also sponsors foreign-trained RNs for immigration to the US. JUNO has offices in New York, and in New Jersey where it offers homecare services.

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(Advertising Supplement)

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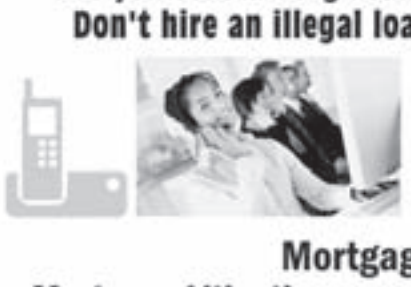

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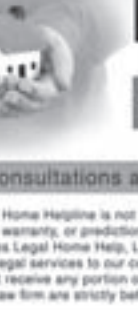

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IMMIGRATION STORIES

ATTY. DANIELA KOIMAN

Citizenship through Grandpa

WHEN Mario was a year old his father's employer sent him to work in America for two years as a representative of his company. The entire family came, and ended up staying for seven years as permanent residents. With the passage of time, Mario's parents began to argue. His father, Ricardo, wanted to stay in the United States, build his life here, and since he could do so, became a United States citizen. When Mario's father became a citizen Mario was a minor child living with a naturalizing parent – so Mario became a citizen as well. His mother, Ana, missed her home, her parents and her friends so much that she no longer cared if Ricardo stayed here by himself. The parents divorced and Mario went back to his home country with his mother.

As Mario grew, he never paid much attention to the fact that he is a citizen of the United States. His mother raised him far away from America and taught him that his father was crazy. Mario eventually married and raised a family of his own. Every once in a while they went to the United States to visit their Grandpa Ricardo. Mario, of course, had an American passport, and the children had tourist visas. With the years, Mario's wife convinced him that it might be a good idea to make the children United States citizens as well so that they would never have any problems with their visas and give them possibilities of living in America in the future, if they so choose. The couple spoke with a few attorneys who told them that a citizen of the United States can give automatic citizenship to his foreign born children who live abroad only if he himself has lived in the United States as a citizen at least 5 years, out of which at least two must have been after the age of 14. And all this must be proven with documents. Since Mario had not lived in the United States as a citizen at least 2 years after the age of 14, they abandoned the possibility, until one day they heard of someone who received US citizenship through his grandmother. Immediately they wanted to know if anything could be done for their children.

The answer is – yes. But only under certain circumstances:

1. The children must be under the age of 18 on the day they become citizens.

2. The citizenship must be granted in the United States – Embassies don't do it unless both grandparents (Ricardo and Ana) are United States citizens and meet all the criteria, and in this case Ana never became a citizen – and the children must enter the United States with a valid visa.

3. The US citizen parent (Mario) must prove that he really is a U.S. citizen (Passport or naturalization certificate) and that these really are his children (birth certificates).

4. The US citizen parent (Mario) must prove that the children live with him and in his custody regularly outside the borders of the United States.

5. The US citizen grandparent (Ricardo) must prove that he is really is a U.S. citizen and that the U.S. citizen parent (Mario) really is his child.

6. The US citizen grandparent (Ricardo) must demonstrates that he has been living in the United States as a citizen at least 5 years, at least 2 of which must have been after the age of 14 – and all that must be proven with documents.

The application was sent on a form N-400K to the local immigration field office. Even though it is recommended to allow the immigration office at least 3 months to work on the file, Mario had to get it done faster. By the time he found out that his children COULD become citizens through his father, his eldest son was only a month short of his 18th birthday.

We apologized to the immigration officer and explained that the family really was not aware

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