

MINDING YOUR FINANCES



ATTY. RAYMOND BULAON

Excessive debts can make loan modification difficult or impossible

are at an all-time high and if this trend continues, I predict that bankruptcy filings will continue to rise as they have over the last 3 years since the new bankruptcy laws were passed.

Lately, I've been seeing a lot of homeowners who are considering bankruptcy but are also in the process of trying to get a loan modification with their lender because they have a foreclosure pending. A lot of them are telling me that their lender has told them that they do not qualify for a voluntary loan modification because of their high debt-income ratio. What this means is that if you owe a lot in other debts (such as credit cards, personal loans, etc.) besides your mortgage, the bank may think that even though your mortgage payments are lower after your loan is modified, it would still be difficult or impossible for you

to keep your home because you have other debt obligations that must be paid (and a lot of people in foreclosure are also behind on all their other debts so these debts are showing up as collection accounts on their credit report). In other words, the bank may be telling you that given your current debt load, you simply cannot afford to keep your home and they would rather cut their losses and foreclose on your home because they are left with no other option. Bear in mind that banks hate foreclosing on any property but will do so as a last resort.

Because of the massive number of foreclosures that banks are currently dealing with, I find that a lot of lenders are slow these days in initiating the foreclosure process even when the borrower is already several months delinquent. However, in California,

once a Notice of Default is filed against the property, the 90-day statutory period begins to run and the clock starts ticking. Unless the foreclosure is stopped, by filing bankruptcy or other legal means, the lender only needs to give 21 days' notice (by sending the borrower another document called "Notice of Trustee Sale") after the 90-day period in setting a sale date for the property being foreclosed on. Filing bankruptcy, Chapter 7 or Chapter 13, will immediately stop the sale from going forward and the bank will need court permission to continue with the process if mortgage payments are not being made. An experienced and knowledgeable bankruptcy attorney can explain to you how

Chapter 7 or Chapter 13 may help you save your property or at least postpone the foreclosure sale so that you can look at all other possible options. In Chapter 13, it is also possible to "strip down" or remove your 2nd mortgage if the current market value is below the amount of the 1st mortgage.

Eliminating (or at least consolidating) your debts may improve your debt-income ratio and this may be what your lender wants to see when considering your application for a loan modification. Of course, this is just one of the factors that they take into account when evaluating your financial information. Just as important are your ability to show regular and stable employment as well as an assurance to the

lender that whatever caused the financial hardship to begin with is now behind you so that you can afford your new mortgage payment once your loan is modified. IMPORTANT: Please be aware that most lenders are STILL willing to negotiate a loan modification in spite of the fact that a bankruptcy case has been filed. However, there are certain lenders with more restrictive policies. You need to know what your lender's policies are.

None of the information herein is intended to give legal advice for any specific situation. Atty. Ray Bulaon has successfully helped over 4,000 clients in getting out of debt. For a free attorney evaluation of your situation, please call Ray Bulaon Law Offices at TOLL FREE 1-866-477-7772.

(Advertising Supplement)

IMMIGRATION UPDATE



ATTY. EUGENE PALACIOS

How to successfully bring your adopted child in the US

sworn affidavits, are insufficient. The rules are different when it comes to orphans. The 2-year actual custody and 2-year legal custody requirements do not apply to orphans.

A petition for an orphan must establish that the child was adopted abroad before the child reached the age of 16 and the adoption process complied

years old. Adopting a child in the Philippines is a complicated process. It is important that you consult and/or hire an immigration attorney who is also familiar with the adoption rules and procedures in the Philippines before you start the adoption process.

Attorney Eugene M. Palacios is the founder and principal of the Law Offices of Eugene M. Palacios. He has great depth of experience and a successful track record in handling employment and family-based petitions as well as PERM and naturalization applications. He is licensed as an attorney in California and is admitted to practice before US Immigration Courts, the US Central District Court, and California State Courts. He is also an active member of the American Immigration Lawyers' Association. His offices are located at 100 North Brand Boulevard, Suite 600, Glendale, California 91203 and at 800 South Barranca Avenue, Suite 250, Covina, California 91723.

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(Advertising Supplement)

"The rules are different when it comes to orphans. The 2-year actual custody and 2-year legal custody requirements do not apply to orphans."

with the rules under the Hague Convention if both countries are state parties to the Convention. Further, the petition must prove that the child is indeed an orphan by reason of death or disappearance, abandonment and/or desertion, separation, or loss of both parents. Lastly, the petition must establish that the adoption of the orphan child has been made by husband and wife or by a single parent at least 25

IMMIGRATION EDGE



ATTY. DANIEL HANLON

What does 'voluntary departure' really mean?

own expense and on or before a date set by the Immigration Judge. While a person may request VR only to avoid a deportation, VR is often requested as an alternative to another, more substantive, form of relief, such as Asylum, Adjustment of Status, or Cancellation of Removal. In these cases, a grant of VR allows the person to leave on his own if the IJ denies the applicant's main request for relief.

The new rule principally deals with situations in which VR is requested as an alternative form of relief. Previously, a person denied an application for substantive relief but granted voluntary departure for a limited period could appeal the denial of the substantive relief application and the grant of VR would be preserved until after the appeal was decided. While this rule protected many people, it also created anomalous situations when a person granted subsequently sought to reopen the case to apply for new relief. The reason is that if a person overstates the period in which he was granted VR, he is penalized by losing eligibility for adjustment of status and cancellation of removal. In these cases, the grant of VR alone could render the person ineligible for the new relief.

Under the new rule, if a person was granted VR but denied substantive relief and files an

appeal, the grant of VR is terminated upon the filing of the appeal. Similarly, a grant of VR terminates upon the filing of a Petition for Review of a decision from the BIA which denied substantive relief but reinstated the IJ's initial grant of VR. The rule also requires that IJ's and the BIA provide adequate notice of these conditions and the effect of failing to depart under a grant of VR.

In practice, VR has long been used to allow a person to leave by himself if his application were not granted, and not simply be left with an all-or-nothing option of a grant of relief or deportation. The new rule effectively forces an applicant's hand into this unpalatable choice. On the other hand, the new rule will prevent the situation where a person becomes eligible for relief, but is ineligible for having overstayed the previous grant of VR. As with any change in the immigration law, the true effects may not become known until the rule is implemented and the lawyers are left to argue over its interpretation.

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