

Ken: Jon, tell us about Chapter 13 bankruptcy.

Jon: This is probably the most confusing part of bankruptcy. Chapter 13 is the type of bankruptcy that allows a wage-earner or a small-business owner to file bankruptcy and make repayments to their creditors. The idea of Chapter 13 is that Chapter 11, the type that a General Motors would file, is the type of bankruptcy that is a little bit complicated, so why not have a type of prepackaged Chapter 11? That is what Chapter 13 is. It is a repayment type of bankruptcy.

Ken: So why would anyone opt for this if it requires you to repay things when others do not?

Jon: Well, in 2005 congress changed the law. Basically, the idea was that people who could afford to make repayments to creditors should not just be let off scot-free, so they instituted the Means Test. The Means Test requires that you, basically, have reasonably low-income or have extraordinary circumstances in order to file a Chapter 7. This leaves a lot of people with only one option and that is to file a Chapter 13 and repay at least some of their debts to their creditors.

Ken: How does Chapter 13 help somebody who is trying to hold onto their house?

Jon: This is actually a very common reason why we see people now. Chapter 13, since it is a repayment bankruptcy, allows you to pay what is past due on your house. So, we get a lot of people who are trying to do a home loan modification, cannot get anywhere, and this is sort of their last resort. Basically, their Chapter 13 payments will go toward repaying what is owed to the home lender. The Chapter 13 allows the homeowner to make their regular payments to the lender.

There is one other thing about Chapter 13 that makes it so powerful, and that has to do with second mortgages. In this market, everybody's home equity line is completely unsecured now. If they foreclosed on your house, nothing would go to the lender on the second mortgage, and this is the way that a Chapter 13 bankruptcy court would look at it. They would say that it is basically just credit card debt. So, a large advantage of Chapter 13 bankruptcy to our clients is that they complete their Chapter 13 and their second mortgage is completely gone. The lien is gone, and they might be upside-down in their house, but not by quite as much.

Ken: When they do get out of Chapter 13, it is pretty obvious that all of this debt is not going to be paid back. What happens to that debt?

Jon: People who come to us are usually way behind and most tend not to repay it all back. When they get to the end of the 3 to 5 year Chapter 13 period, whatever debt is left is discharged just as if they filed a Chapter 7. It just goes away.

Ken: Let's say you decided to do the Chapter 13 route and during the repayment period you lose your job. What do you do then?

Jon: You can always convert to a Chapter 7. Unfortunately, in this economy this has been happening more and more. Someone has a good job and is making good money, and they lose their job or can no

longer work. They can take their Chapter 13 bankruptcy and convert to a Chapter 7 and discharge all of their debt.

Ken: What is your website Jonathan?

Jon: People can get in touch with us either online at [www.discreetbk.com](http://www.discreetbk.com) or by phone at (480) 295-3470. The website is a great place to get a little more information and they can always meet with one of our lawyers for free.