

## Your rights against creditors...

### Foreclosure defense

Powerful and effective tools exist to stop foreclosures and other collection efforts, but these tools are best used by attorneys experienced in defending your assets. Each tool has advantages and disadvantages, and only an experienced attorney knows the best overall solution to your problems. The basic tools are creditor negotiations, lawsuit defense, foreclosure defense, use of new federal programs to help homeowners, and bankruptcy law. Beware of anyone who is unlicensed and unregulated and offers you advice in foreclosure defense or loan modifications.

This guidebook introduces you to some of the tools that are available to you in the face of financial distress. As you read through its contents, please contact us with any questions you may have.



Contact us today for a **free** consultation.

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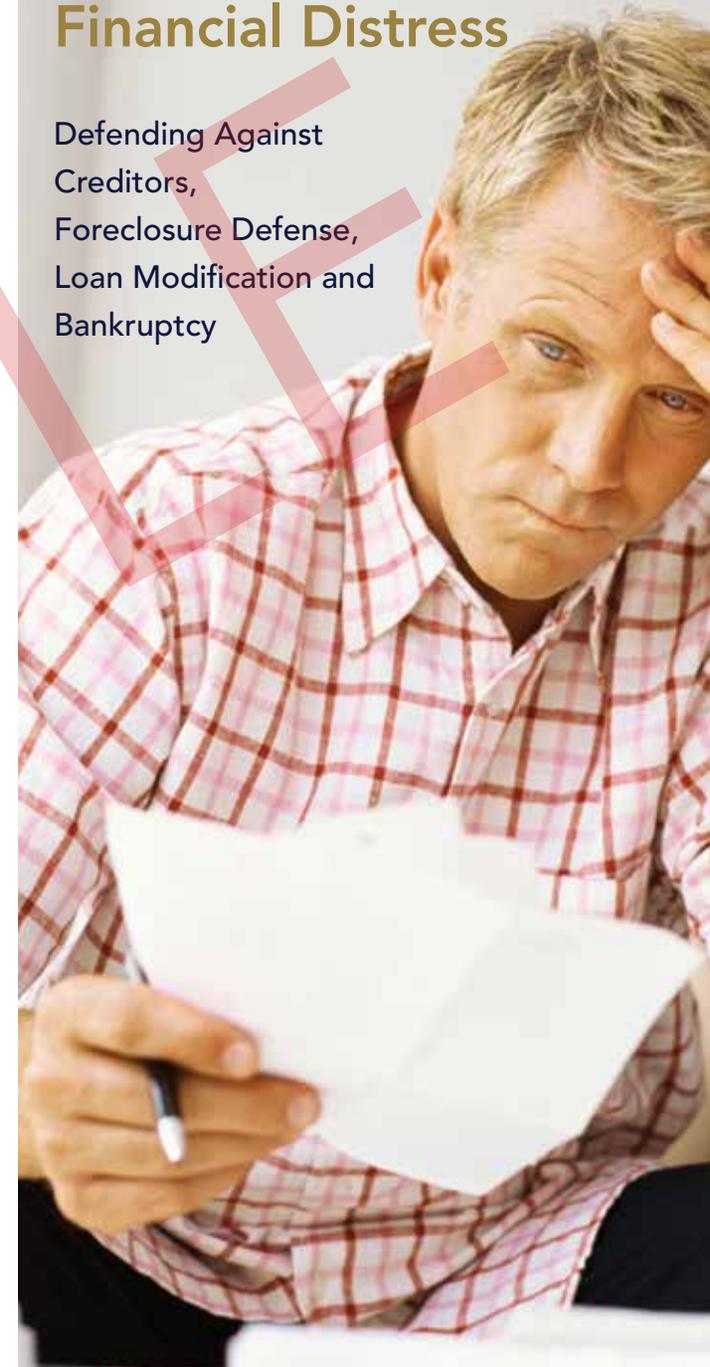
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This guidebook is for informational purposes. Since individual situations and legal issues vary, it is important to contact an attorney to discuss your specific legal situation.

## Your Rights During Financial Distress

Defending Against  
Creditors,  
Foreclosure Defense,  
Loan Modification and  
Bankruptcy

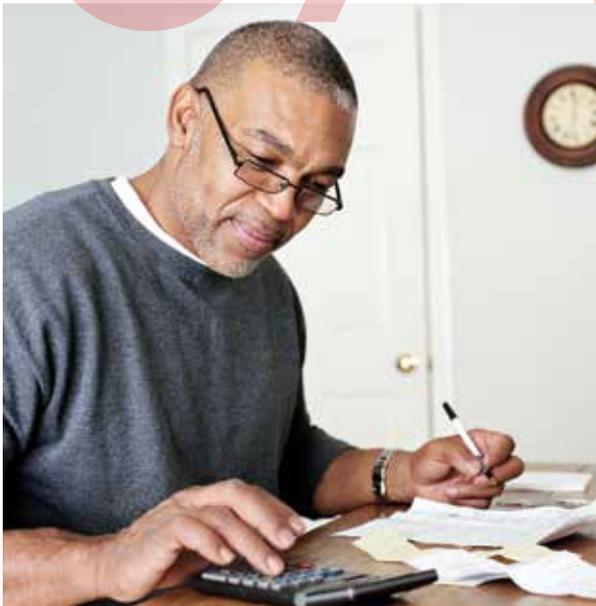


## Creditor Negotiations

Creditors (people to whom you may owe money) are very well aware of the devices to get people to pay their debts. Often, they are used improperly or unjustly. They include collection calls, collection letters and lawsuits. In many cases, these are steps to more severe measures creditors routinely take, like garnishment (which means that a creditor can seize part of your paycheck before you receive it) and foreclosure (which means that a creditor can seize your house, evict you from that house, and still demand money they claim is owed them later). It is absolutely critical that you act as early as possible to avoid use of these tactics.

An attorney can negotiate with creditors on your behalf. Creditors can be approached by an attorney to accept less than they claim from you, accept your repayment at later times and later dates, and hold off lawsuits. It is in their interests to cooperate with you, and it is much more likely to get cooperation with the use of a lawyer.

Most people are unaware that creditors have certain rules they themselves must follow, by law which limit the time and places they can call. Often, the very process of calling you and writing you letters is a stress on you and your family, which actually makes the situation to repay more difficult.



## Lawsuit Defenses

When creditors stop calling and stop sending letters, it is often a sign that they are preparing to sue you in court. A lawsuit is time-consuming and expensive, and no one should try to defend a lawsuit without an attorney. Often, judges tell people who have no lawyers and who are being sued that they must hire an attorney immediately. The sooner you hire a lawyer, the better. Certain rights are lost if you do not answer a complaint in court within rigid time limits.

## Foreclosure Defense

Foreclosure usually means a court proceeding brought against you by a creditor to seize your home and sell it for what they believe they are owed by you for a debt. If you own a home, whether or not it is mortgaged, creditors can go after your home. It does not matter how long you have owned that home, or whether your family has another place to live. Courts very frequently foreclose homes from families. To foreclose means to seize and sell the house, often back to the bank, and the bank might even throw you out of your house and still sue you for an amount of money they claim you still owe them. A house is foreclosed only after rigorous enforcement of certain laws as overseen by a court. Tax liens and judgments present a similar problem, and experienced attorneys can negotiate with local towns and other governments to obtain relief for you.

## Loan Modifications

Recent laws passed by the federal government can be used to modify most, if not all, mortgages and make homes more affordable. Special help is given to underemployed people (meaning workers making much less money than they customarily did in better economic times), unemployed workers, and those finding mortgages they originally signed much more difficult to pay each month. These programs include the federal "Home Affordable Modification Program (HAMP)." Parts of the law include refinancing, mortgage modification and other alternatives to foreclosure. While you need not hire a lawyer to obtain this relief, it is recommended.

## Bankruptcy Law

Perhaps the most helpful tool for people finding it hard to pay their bills and also to avoid lawsuits and foreclosure is federal bankruptcy law. Unfortunately, while this law is powerful, it is also complex and, in recent years, major changes have occurred which make the law even more complex.



There are two basic reliefs available: Chapter Seven (which means a total liquidation or cancellation of debt) and Chapter Thirteen (which means a reconstruction of your finances and obligations under strict court supervision). This federal law actually freezes state court lawsuits, stops all calls and letters from all creditors and interrupts foreclosures. At the same time, however, all your personal and business finances are opened in court, available to your creditors, who may, or may not, fight this protection. It is not an easy step and must be closely considered by you and your attorney. It means filing your own lawsuit (petition) in federal bankruptcy court, which means that the attorney you select must know a very complex and very demanding set of laws.

After your petition is filed, creditors are served with copies of the petition. They then have the option to challenge the petition, and many creditors do. They usually counter that you used credit irresponsibly, and just don't want to pay back your debts. They want all or most of their money. You need a lawyer to defend against these charges. It is then a matter of settling these debts, at terms approved by both the bankruptcy trustee (who actually handles most of the court work) and eventually the Judge. You usually have to attend bankruptcy court-ordered counseling classes. The actual court dates are at the local bankruptcy court, and while some privacy is attempted, the discussions are in open court. You should also know that a bankruptcy, if successfully sought, remains on your credit record for seven years.