



Oklahoma Exemptions in Bankruptcy

by Mark Toffoli

Because of Oklahoma's reliance on energy-related employment, the cyclical nature of the energy industry has often caused a corresponding inverse number of bankruptcy filings. That is, when energy is down, bankruptcy filings are up. And although bankruptcy filings are done pursuant to federal law, the Bankruptcy Code provides that under certain circumstances application of state law will be required. For any Oklahoman who owns their own home and is faced with the unfortunate circumstance of having to file bankruptcy, the intertwining of bankruptcy law and state law is relevant in the following way.

Under bankruptcy law, certain types of property are considered to be "exempt", meaning that even though you have filed for bankruptcy you still get to keep certain types of property. If someone files for bankruptcy in Oklahoma, then Oklahoma exemption laws will be applied. Generally speaking, if a homeowner files bankruptcy in Oklahoma that homeowner will not lose the home in the bankruptcy. In Oklahoma, a person's principal residence cannot be sold for the payment of debts. The residence is considered "exempt." Of course if there is a mortgage, or mortgages, on the home, continued payments on the mortgage(s) would need to be made if the homeowner wanted to keep the home.

However, in order to be able to claim the Oklahoma exemptions in a bankruptcy filing, bankruptcy law provides that the person must have been "domiciled" in Oklahoma for the two years immediately preceding the date of the filing of the bankruptcy. Failure to establish this residency requirement may seriously impact the claim of exemptions. There are other considerations regarding exemptions for someone considering filing bankruptcy so seeking the help of a qualified attorney is strongly recommended.