

Bankruptcy Cliff Notes

Chapter 13

Mortgage Included in Bankruptcy & Discharged

- Bankruptcy discharge
- Trustee paid as agreed or paid pursuant/according to terms letter. Can now also include paid as agreed from attorney. If not a state where it is filed, pay history from either NDC (National Data Center) or court recorded payments if they do not use NDC.
- Bankruptcy plan proving the mortgage is included.
- Mortgage payments since discharge – credit supplement, VOM, transaction history, mortgage statements showing payments, bank statements with consumer name and account number showing payments made each month.

Mortgage NOT Included in Bankruptcy & Discharged

- Bankruptcy discharge
- Trustee paid as agreed or paid pursuant/according to terms letter. Can now also include paid as agreed from attorney. If not a state where it is filed, pay history from either NDC (National Data Center) or court recorded payments if they do not use NDC.
- VOM, transaction history, supplement if reporting to credit or canceled checks or bank statements with payoff or mortgage statement proving next due to backtrack payment history if servicer is unwilling to complete VOM or provide transaction history.

Chapter 13 Buyout

- Letter from the court approving the mortgage transaction taking out new credit. The filing done at court level is ***Motion To Incur New Debt.***
- Trustee paid as agreed or paid pursuant/according to terms letter. Can now also include paid as agreed from attorney. If not a state where it is filed, pay history from either NDC (National Data Center) or court recorded payments if they do not use NDC.
- Payoff letter directly from trustee or court system proving remaining balance.
- If mortgage is not included in BK, proper mortgage pay history as outlined in the *Mortgage Not Included* section above.

Chapter 7

- Discharge to confirm date.
- If mortgage does not report, 12-month pay history. Preferred VOM / transaction history, but canceled checks or bank statements — if current statement or payoff can prove mortgage is current — and work backwards.
- If under 2 years, LOX for extenuating circumstances.

Chapter 7 – 1–2 Years Extenuating Circumstances

Extenuating circumstances are **nonrecurring or isolated events or sets of events that are beyond the borrower's control** that result in a sudden, significant, and prolonged reduction in income or a catastrophic increase in financial

obligations.

Potentially acceptable extenuating circumstances include:

- A loss of employment or loss of income that causes a reduction in the borrower's household income of **20% or more for at least 6 months**.
- A serious illness with a corresponding loss of income.
- Death of a co-wage earner or a close family member that causes serious expenses for the borrower.
- Severe and sudden medical expenses.

*Note: Divorce is **not** an eligible extenuating circumstance.*

Documentation Requirements

- If a borrower claims derogatory information is the result of extenuating circumstances, the DE underwriter must substantiate the borrower's claim.
- Documents that **confirm the event**: copy of divorce decree, medical reports or bills, notice of job layoffs, job severance papers, etc.
- Documents that **illustrate contributing factors**: insurance papers or claim settlements, property listing agreements, lease agreements, tax returns covering periods prior to, during, and after a loss of employment, etc.

Written Explanation Requirement

- The DE underwriter must obtain a written explanation from the borrower explaining the relevance of the documentation.
- The written explanation must: support the claims of extenuating circumstances, confirm the nature of the event that led to the bankruptcy or foreclosure-related action, and illustrate that the borrower had no reasonable options other than to default on financial obligations.
- The written explanation may be in the form of a letter from the borrower, an email, or other written documentation provided by the borrower.