

Will I have to sell my home to pay creditors in a Chapter 7 bankruptcy?

The answer to that question, like many answers to questions about bankruptcy, is "it depends". As an overview, it depends on the equity you have in your home and the "exemptions" you have to protect your home from creditors. For starters, "you" would never have to sell your home, but the bankruptcy trustee might do that.

Equity in your home - Your equity for bankruptcy purposes, or the amount that creditors would get (not considering exemptions), is the current market value of your home less the total amount you owe on it, less another approximately 10% for cost of sale and another approximately 10% for the trustee's fee. If that's a positive number, you need to protect it using the exemptions available.

Exemptions - In California you get a homestead exemption of the following amounts:

- \$75,000 - Single person
- \$100,000 - Married person, spouse living in the house
- \$175,000 - Debtor or spouse (living in the house) is one of the following:
 - 65 or older
 - Physically or mentally disabled so as to be unable to engage in substantial gainful employment.
 - 55 years of age or older with a gross annual income of not more than \$15,000 or, if the debtor is married, a gross annual income of both debtor and spouse of not more than \$20,000.

If your equity as calculated above, less your exemptions available, is small, say less than \$20,000, you'd probably use the alternative set of California exemptions that provides a smaller homestead exemption but gives you a "wildcard" exemption you can use to protect cash and bank accounts, etc.

Also, if you do have unprotected equity in your home, you can probably offer the trustee a cash payment in exchange for keeping your home. The trustee has no use for your home except as a vehicle to get money for your creditors, so paying the trustee money accomplishes the same thing. The amount you'd need to pay the trustee would be negotiable.

As you can see, this whole subject is both complex and very important, so please retain a qualified bankruptcy attorney so you're assured of the best possible outcome.

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