

REORGANIZATION
UNDER
CHAPTER 13
— WHO GETS WHAT —

General principles of reorganization:

- The debtor keeps their property, the obligation is to make the payments required by the court-approved plan over the life of the plan, usually from three to five years. After successful completion, all pre-petition debts are discharged.
- The debtor must propose a plan that meets the Chapter 13 requirements and show that there will be sufficient income to make the plan work.
- If the debtor can't get a plan approved, then the case must be converted to another chapter or dismissed.

Requirements for plan approval under Chapter 13:

SECURED CLAIMS – payment in full to the extent of the security interest

Secured claims are claims that are secured by collateral.

Stripdown – If a secured creditor is owed more than the value of the collateral – that is, if the claim is undersecured – then the debt may be stripped down, giving the creditor has two claims, a secured claim for the value of the collateral, plus an unsecured claim for the remainder (*see* §506)

A secured claim can be satisfied by any of the following:

- *Voluntary modification* – A secured creditor can voluntarily agree to modifications of the loan and payment schedule (*see* §1325(a)(5)(A))
- *Cramdown* – A secured claim can be satisfied, whether the creditor likes it or not, if the debtor proposes an accepted plan that pays (1) the full value of the secured claim (i.e., the portion of the claim secured by collateral) at the time of filing (i.e., reduced to present value), and (2) interest on that claim accruing over the life of the plan payments (*see* §1325(a)(5)(B)). (Remember the stripdown: the portion of the debt not secured, if any becomes an unsecured claim and is treated accordingly.)*
- *Surrender* – A secured claim is satisfied if the debtor surrenders the collateral to the creditor (*see* §1325(a)(5)(C)).*

RECENT PURCHASE-MONEY CLAIMS THAT ARE STRIPDOWN IMMUNE – payment in full

Two categories of purchase-money loans with a security interest are immune from stripdown, and thus must be paid in full (*see* §1325(a)(at end)):

- Any purchase-money security interest granted within one year before filing
- Auto loans granted 910 days (2.5 years) before filing

* (Remember the stripdown: The portion of the debt not secured, if any becomes an unsecured claim and is treated accordingly.)

UNSECURED PRIORITY CLAIMS – payment in full

Priorities under §507 must be paid in full (*see* §1322(a)(2)) with the exception of some domestic support obligations (*see* §1322(a)(4))

Domestic support obligations and certain administrative expenses of the estate (*see* §507(a)(1))

Administrative expenses of the estate (*see* §507(a)(2))

Ordinary-course-of-business expenses in involuntary cases (*see* §507(a)(3))

Wages earned within 180 days before filing (or cessation of business) up to \$10,000 per employee (*see* §507(a)(4))

Employee-benefit plan contributions incurred within 180 days before filing (or cessation of business), subject to a formula-prescribed cap (*see* §507(a)(5))

Amounts owed to farmers and fishermen, up to \$4,000, by grain and fish buyers (*see* §507(a)(6))

Consumer deposits, up to \$1,800, for undelivered services or property (*see* §507(a)(7))

Taxes, subject to certain time limitations (*see* §507(a)(8))

Amounts owed to the FDIC and the like by banks and other depository institutions (*see* §507(a)(9))

Personal injury or wrongful death damages from driving, boating, or flying while intoxicated (*see* §507(a)(10))

GENERAL UNSECURED CLAIMS – payment pro-rata from all disposable income

Assuming the debtor cannot pay back all unsecured debts, then the debtor must pay all “disposable income” over the life of the plan to unsecured creditors on a pro-rata basis (*see* §1325(b)).

Disposable income is “current monthly income,” other than received child support, less:

- amounts reasonably necessary for the debtor and debtors’ dependents to live on (*see* §1325(b)(2)(A)(i))
- domestic support obligations (*see* §1325(b)(2)(A)(i))
- qualifying religious and charitable contributions (subject to a 15% of gross income cap) (*see* §1325(b)(2)(A)(ii))
- amounts necessary for maintaining the debtor’s business, if applicable (*see* §1325(b)(2)(B))
- payments on secured debt under the plan

If and only if the debtor has above-median family income, then IRS expense standards are used to determine what is reasonably necessary in terms of expenses (*see* §1325(b)(3)).

The unsecured creditors will get payments as long as the plan lasts, which will be:

- three years for below-median debtors (*see* §1325(b)(4)(A)(i))
- five years for above-median debtors (*see* §1325(b)(4)(A)(ii))
- less than three years or five years, whichever applicable, if unsecured debts can be paid off in full (*see* §1325(b)(4)(B))