line, or electrical outlets will typically be included in the definition of real property. For example, refrigerators, washers, dryers, and coffee machines are usually personal property. Exhaust vents, cooktops, built-in intercom or speaker systems, and security alarm systems are commonly treated as real property.

But more complex situations do arise. For example, should you have an heirloom chandelier (brought from another continent by your grandparents when immigrating to the United States) and the chandelier was installed in the dining room, if removed and replaced with another acceptable light fixture with any damage to ceiling painted surfaces being repaired, the heirloom chandelier will likely be construed as personal property. On the other hand, if you installed an expensive steam shower and you simply don't want to leave the equipment behind so you tear it out, the shower is likely to be considered a built-in or attached fixture and you could be prosecuted both criminally and civilly for the intentional damage to the home.

Post-Foreclosure Option for the Former Homeowner

Bankruptcy can also be a pre- or post-foreclosure option for the homeowner. You are entitled to file a petition in bankruptcy under the applicable chapters of the U. S. Bankruptcy Code. Bankruptcy is an option for homeowners who are hopelessly in debt and meet the definition of being insolvent under the Bankruptcy Code. If the homeowner qualifies, then the homeowner may use this method to sell the home under court supervision.

The bankruptcy option may be pursued either before or after the foreclosure sale. However, post-foreclosure petitions in bankruptcy filed by the homeowner may be limited to assets other than the former home, particularly when the homeowner no longer has or is entitled to legal possession of the property.

Different types of bankruptcies exist for different situations. Mortgage loans are debts secured by real property. A bankruptcy court may convert a mortgage loan in certain fact situations totally or partially to an unsecured debt and, depending upon the fact situation, may be able to modify or restructure the mortgage loan.

Despite that the promissory note and home mortgage loan instrument (deed of trust) cannot be modified, altered, or otherwise changed during any bankruptcy case, even a Chapter 13, homeowners may still file petitions in bankruptcy and obtain the benefit of the automatic stay. The traditional Chapter 13 plan offering repayment of pre-petition arrearages on a mortgage loan over three to five years can provide some relief which will allow you to achieve a much needed “fresh start.”

Some lenders or their servicing agents may voluntarily agree to modifications of residential mortgage loans in bankruptcy cases because they would rather have a performing loan on their books with regular mortgage payments coming in rather than a defaulted loan for which they must set aside reserves.

Bankruptcy after the foreclosure sale is a common practice because it may allow you to discharge certain debts. If you are considering bankruptcy, consult with an attorney familiar with federal bankruptcy law.

Many lenders will not loan money to homeowners who filed bankruptcy petitions within the past seven years. Others may extend credit to homeowners after five years following a petition in bankruptcy, and yet other lenders following a discharge or dismissal from bankruptcy will typically impose upon homeowners a substantially higher interest rate and increase the loan fees to obtain a mortgage loan.